MONTANA LEGISLATIVE HISTORY

Chapter 423 ~~19~~ 2003

Bill H 641 S _____ Original bill & history X C

H. Committee on Federal Relations, Energy and Telecommunications

Hearing Date(s) 2/21/2003 ____C

_____ ____C

_____ ____C

_____ ____C

Date Out 2/24/2003 ____C

S. Committee on Energy + Telecommunications

Hearing Date(s) 3/20/2003 ____C

_____ ____C

_____ ____C

3/28/2003 ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

House Floor

2/27 2nd Reading (passed)

3/28 3rd Reading (passed)

4/10 2nd Reading (amd concurred)

4/11 3rd Reading (amd concurred)

Senate Floor

4/04 2nd Reading (concurred)

4/05 3rd Reading (concurred)

Compiled on Jan 27, 2006

Compiled by SJL

2/19	FISCAL NOTE PRINTED		
2/21	HEARING		
2/21	COMMITTEE EXECUTIVE ACTION—BILL PASSED	14	0
2/22	COMMITTEE REPORT—BILL PASSED		
2/25	PLACED ON CONSENT CALENDAR		
2/26	3RD READING PASSED	92	7
	TRANSMITTED TO SENATE		
2/27	REFERRED TO ENERGY AND TELECOMMUNICATIONS		
3/20	HEARING		
3/26	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	8	0
3/26	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED ON VOICE VOTE	48	1
4/04	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE		
4/07	SENT TO ENROLLING		
4/08	RETURNED FROM ENROLLING		
4/08	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/09	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
4/14	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 312		
	EFFECTIVE DATE: 10/01/2003 - ALL SECTIONS		

HB 638 INTRODUCED BY KAUFMANN *LC1262 DRAFTER: PETESCH*

CORPORATE ACCOUNTABILITY FOR PUBLIC INVESTMENT

2/14	INTRODUCED		
2/14	FISCAL NOTE REQUESTED		
2/14	REFERRED TO BUSINESS AND LABOR		
2/20	HEARING		
2/20	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/21	TABLED IN COMMITTEE		
2/28	MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL		

HB 639 INTRODUCED BY LASLOVICH *LC2038 DRAFTER: KURTZ*

FINES FOR VIOLATIONS OF MOTOR VEHICLE REGULATIONS ON UNIVERSITY SYSTEM CAMPUS

1/15	FISCAL NOTE NEEDED		
2/14	INTRODUCED		
2/14	FISCAL NOTE REQUESTED		
2/14	REFERRED TO JUDICIARY		
2/19	HEARING		
2/19	FISCAL NOTE RECEIVED		
2/19	FISCAL NOTE PRINTED		
2/19	COMMITTEE EXECUTIVE ACTION—BILL PASSED	15	3
2/20	COMMITTEE REPORT—BILL PASSED		
2/22	2ND READING PASSED	77	22
2/24	3RD READING PASSED	69	30
	TRANSMITTED TO SENATE		
2/26	REFERRED TO EDUCATION AND CULTURAL RESOURCES		
3/19	HEARING		
3/21	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	9	0
3/21	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	42	8
3/26	3RD READING CONCURRED	42	8
	RETURNED TO HOUSE		
3/27	SENT TO ENROLLING		
3/27	RETURNED FROM ENROLLING		
3/28	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
4/01	TRANSMITTED TO GOVERNOR		
4/03	SIGNED BY GOVERNOR		
4/03	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 220		
	EFFECTIVE DATE: 10/01/2003 - ALL SECTIONS		

HB 640 INTRODUCED BY HAINES *LC1526 DRAFTER: PETESCH*

REVISE LOCAL GOVERNMENT BUILDING CODE AUTHORITY

2/14	INTRODUCED		
2/14	REFERRED TO BUSINESS AND LABOR		
2/21	HEARING		
2/21	COMMITTEE EXECUTIVE ACTION—BILL PASSED	13	5
2/22	COMMITTEE REPORT—BILL PASSED		
2/26	2ND READING PASSED	61	38
2/27	3RD READING PASSED	60	38
	TRANSMITTED TO SENATE		
2/28	REFERRED TO LOCAL GOVERNMENT		
3/07	REREFERRED TO BUSINESS AND LABOR		
3/24	HEARING		
4/01	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	10	0
4/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	28	21
4/05	3RD READING CONCURRED	29	21
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING SENATE AMENDMENTS CONCURRED	74	24
4/11	3RD READING PASSED AS AMENDED BY SENATE	66	31
4/12	SENT TO ENROLLING		
4/14	RETURNED FROM ENROLLING		
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
4/22	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 443		
	EFFECTIVE DATE: 4/21/2003 - SECTIONS 25 AND 28		
	EFFECTIVE DATE: 10/01/2003 - SECTIONS 1-24, 26 AND 27		

HB 641 INTRODUCED BY HAINES *LC1527 DRAFTER: CAMPBELL*

NONDISCRIMINARY PAYMENT OF INTERCARRIER COMPENSATION

2/14	INTRODUCED		
2/14	FISCAL NOTE REQUESTED		
2/14	REFERRED TO FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS		
2/19	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/21	HEARING		
2/25	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	13	1
2/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/27	2ND READING PASSED	97	3
2/28	3RD READING PASSED	82	15
	TRANSMITTED TO SENATE		
3/07	REFERRED TO ENERGY AND TELECOMMUNICATIONS		
3/19	REVISED FISCAL NOTE REQUESTED		
3/19	REVISED FISCAL NOTE RECEIVED		
3/20	REVISED FISCAL NOTE PRINTED		
3/20	HEARING		
3/28	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	6	4
3/28	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/31	REVISED FISCAL NOTE REQUESTED		
4/04	2ND READING CONCURRED AS AMENDED ON VOICE VOTE	31	3
4/05	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING SENATE AMENDMENTS CONCURRED	85	15
4/11	3RD READING PASSED AS AMENDED BY SENATE	91	6
4/12	SENT TO ENROLLING		
4/14	RETURNED FROM ENROLLING		
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
4/21	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 423		
	EFFECTIVE DATE: 7/01/2003 - ALL SECTIONS		

HOUSE BILL NO. 641

INTRODUCED BY R Stahan
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "INTEREXCHANGE SERVICES", "ORIGINATING CARRIER", "TERMINATING CARRIER", AND "TRANSITING CARRIER"; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-3-803, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the public service commission.

(2) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

(3) "Fund" means the universal service fund established in 69-3-842.

(4) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

(5) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.

(6) "Originating carrier" means a telecommunications carrier from whose network telecommunications traffic originates.

~~(5)~~(7) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and

subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~(8) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~(9) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)~~(10) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)~~(11) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)~~(12) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is

considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

(13) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(14) "Transiting carrier" means a telecommunications carrier that transports traffic from an originating carrier to a terminating carrier."

NEW SECTION. **Section 2. Interexchange services -- nondiscriminatory intercarrier compensation -- billing records -- rulemaking.** (1) Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the local exchange carrier to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge for traffic originated by the provider of interexchange services or by other carriers.

(2) Wireless originated telecommunications delivered to a local exchange carrier network, either directly or through an intermediary transport provider, must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.

(3) A transiting carrier is required to provide billing records to the commission upon request. The commission shall establish by rule the reasonable cost of providing the billing records, and the cost of providing the records must be borne by the originating carrier.

(4) The commission may adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must define the terms "inter-LATA", "intra-LATA", "access tandem", and "host end office" in accordance with commonly accepted industry usage.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

FISCAL NOTE

Bill #: HB0641 **Title:** Nondiscriminary payment of intercarrier compensation

Primary Sponsor: Haines, D **Status:** As Introduced

2/20/03
Sponsor signature Date

2/19/03
Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$0	$0
Revenue:		
General Fund	$0	$0
Net Impact on General Fund Balance:	$0	$0

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☐ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. This bill will have no fiscal impact to the state if passed.

HB 641

7

FISCAL NOTE

Bill #: HB0641 **Title:** Nondiscriminary payment of intercarrier compensation

Primary Sponsor: Haines, D **Status:** As Amended in House Committee

Sponsor signature Date Chuck Swysgood, Budget Director 3/18/03 Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
State Special Revenue	25,209	$25,209
Revenue:		
State Special Revenue	$0	$0
Net Impact on General Fund Balance:	$0	$0

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☐ Significant Long-Term Impacts
- ☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. A minimum of five cases per year would be filed with the Department of Public Service Regulation (PSC) if HB 614 were passed.
2. Each case would require a minimum of 200 hours of work agency wide.
3. The PSC would need 0.50 FTE attorney grade 18 to handle the cases filed under HB 641.

FISCAL IMPACT:

Public Service Regulation	FY 2004 Difference	FY 2005 Difference
FTE	0.50	0.50
Expenditures:		
Personal Services	$25,209	$25,209
Funding of Expenditures:		
State Special Revenue (02)	$25,209	$25,209
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
State Special Revenue (02)	($25,209)	($25,209)

HB 641 #2

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on February 21, 2003 at 3:00 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Alan Olson, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Daniel Fuchs (R)
Rep. Hal Jacobson (D)
Rep. Jeff Laszloffy (R)
Rep. Scott Mendenhall (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Brennan Ryan (D)
Rep. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	HB 700, 2/19/2003; HB 641, 2/14/2003; HB 710, 2/19/2003; HB 637, 2/14/2003; HB 684, 2/18/2003
Executive Action:	HB 479; HB 637; HB 684; HB 710

REP. DOWELL asked Ms. Hedges if the state required a specific level of mercury emissions in air quality reviews.

Ms. Hedges said, "No."

REP. DOWELL asked the sponsor if he was aware of any mercury controls by the state.

REP. BRUEGGEMAN said that he was not aware of any mercury provisions required by the state. He referred to the representative from the DEQ.

Charles Homer, Supervisor, Technical Support Section, Air and Waste Management Bureau, DEQ, said that he was not familiar with the specific requirements for mercury emissions. He said that the Environmental Protection Agency (EPA) is in the process of establishing mercury standards.

REP. OLSON asked if Mr. Homer was familiar with the monitoring of mercury at Colstrip as part of an EPA test project.

Mr. Homer said that he was not aware of the test and did not think that the DEQ was involved.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 15.8 - 21.1}

REP. BRUEGGEMAN said that if an appeal has merit they do not have to pay. He said that if the process continues and there is a problem, that is the risk that the company has to take. It comes down to the fact that we need to be fair in the permitting process. Every major project has been appealed. It is important that there be some risk on the part of those who want to come to the process. This bill would streamline the process and give the Board of Environmental Review the authority that they have in case law.

HEARING ON HB 641

Sponsor: **REPRESENTATIVE DICK HAINES, HD 63**

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 21.1 - 26.3}

REP. HAINES said that he has proposed some amendments to the bill which he distributed.

EXHIBIT(feh39a04)

He indicated that the proponents and the opponents have discussed the bill and may have some additional amendments. He said the that an originating carrier is the company that is used when an individual makes a telephone call. The person at the other end of the call is utilizing the company that is termed the terminating carrier. The terminating carrier bills costs to the originating carrier. If the call is routed over the facilities of an intermediate carrier, that carrier gets some compensation from the originating carrier. The problem is that the terminating carrier is not getting the information from some organizations so that they can bill the originating carrier when they terminate the call on their facilities. The bill is to put into the statute that the in-between carrier will configure their facilities in a way that the terminating carrier will get the information it needs to bill the originating carrier. There has been some reluctance on the part of the intermediate (in-between) carrier to give this information to the terminating carrier. This bill will allow the terminating carrier to go to the originating carrier to put together an agreement that will give the terminating carrier the information needed to bill the originating carrier. The bill gives an avenue for the terminating carrier the opportunity to go to the Public Service Commission if there is a problem.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 26.3 - Tape: 2; Side: A; 21.2}

Geoff Feiss, General Manager, Montana Telecommunication Association, said that Montana-based companies provide services and jobs throughout the state. They work at keeping rates affordable while keeping up with the latest technology. A substantial portion of their operating revenue is derived from charges that local networks bill to originating carriers for the service of terminating calls on the local network. As much as 80% of the traffic is not identifiable and, therefore, not billable. Local networks do not have a means by which to accurately identify or verify the originating carrier. They also have no control over the traffic that is terminated on their network so they can neither identify carriers nor block them from terminating on their network. There is no incentive for the originating carriers to negotiate agreements. HB 641 requires

all carriers to play by the same rules and pay for the services that they receive. He explained wording in the bill and the potential amendments.

Rick Hays, Qwest, said that the problem is a compensation issue. He distributed a copy of the bill with amendments. He said that the intentions of the amendments are to clarify responsibilities and to set up a mechanism that allows companies who originate local calls and companies who terminate local calls to enter into an agreement for payment for those calls. He went over the handout.

EXHIBIT(feh39a05)

Bill Squires, General Counsel, Blackfoot Telephone Cooperative, said that his company provides local service to about 19,000 rural residents and businesses in Western Montana. Local rates pay about 30% of their annual revenue. A big part of the 70% are from the charges for terminating calls as explained in earlier testimony. It is a way to protect their customers from additional rate increases. The bill also provides for the transiting carrier (or intermediate carrier), to provide records to the terminating carrier of calls from originating carriers.

Phil Maxwell, Three Rivers Communications, Fairfield, provided the committee with a written copy of his testimony.

EXHIBIT(feh39a06)

CHAIRMAN BITNEY indicated that the allotted time was expired. He asked that further proponents state their name and who they represent.

Mike Strand, CEO and General Counsel, Montana Independent Telecommunications Systems, said that they support the bill and amendments.

Chuck Evilsizer, Attorney, Ronan Telephone Company, said that he agrees with the theory of this bill. He said that he opposes the amendments.

Tom Schneider, Public Service Commission, said that they agree with this bill with amendments.

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 21.2 - 30}

Michael Bagley, Director of Public Policy, Verizon Wireless, said that they oppose the bill, but do not oppose the concept. He said that they feel that this bill requires companies to install additional trunk groups and that it would be cost prohibitive. They would agree to look at alternatives. They are not interested in a free ride.

Margaret Morgan, Western Wireless, Cellular One, said that they have not been approached regarding this bill. She said that they oppose this bill, but would offer two amendments that would make it realistic. Under Section 1, Subsection 5, they would add "except wireless telecommunications traffic." This would be consistent with the FCC definition for wireless telecommunications traffic. In New Section 2, Subsection 3, she would like to propose that it read "a transiting carrier is required to provide billing records to commission upon request. The commission shall establish by rule the reasonable cost of providing the billing records, and the cost of providing the records must be borne by the terminating carrier who requests the billing records to bill the originating carrier."

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 0.4 - 18.6}

REP. BROWN asked what progress has been made in bringing all the people together, including the wireless people, since last session.

Mr. Feiss said that there has been substantial progress. They have been working with Qwest, since they are the primary players in this issue.

REP. BROWN asked if they would be amenable to the "except wireless telecommunication traffic" amendment suggested by Ms. Morgan.

Mr. Feiss said, "No." He indicated that the bill has been posted on the web for a while. To exempt wireless carriers would essentially emasculate the bill because much of the traffic that is terminated on the end carrier is wireless traffic. He said

that they have all the infrastructure and trunks available to make this bill work.

REP. BROWN asked Commissioner Schneider what the Commissions' stand would be if money is recovered as a result of this bill. She asked if customers expect to see a break on their phone bill.

Commissioner Schneider said that would be the case for companies regulated by the Public Service Commission. It may be that rates would not be increased. Many of the companies are not regulated by PSC.

REP. CARNEY asked if there is, or will be, technology for terminating carriers to identify the originating carriers.

Mr. Feiss said there is not a problem with technology of the terminating carrier. He said that the bill does not recommend how the solution is accomplished, but that the originating traffic is identified and billed for.

REP. MATTHEWS asked if companies that don't have contracts in Montana would be forced to come to the table.

Mr. Feiss said, "Upon request."

There was much discussion about who were originating and terminating carriers.

CHAIRMAN BITNEY asked Mr. Evilsizer if he had some additional comments for the committee.

Mr. Evilsizer said that he was in support of the bill but opposes the amendments. He said that some of the amendments may be contrary to provisions in the Federal act regarding who can request an interconnection agreement. The amendment regarding the mixture of traffic is not clear. Under the Federal act, interconnection agreements are only supposed to be local traffic. The amendments refer to interconnection agreements when the traffic has a mixture of both local and non-local wireline and wireless traffic. It is unclear what rate would be charged. One of the amendments awards judicial powers to the PSC to award damages and attorney fees. This would definitely affect the consumers.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 18.6 - 19.4}

REP. HAINES said that he failed to make a disclosure that he owns one share of Lincoln Telephone stock and he sits on their Board. He said that this bill will keep the process working. He reiterated that the purpose of the bill is not to say how to do it but to do it. He will get the amendments to the staff person by tomorrow.

HEARING ON HB 710

Sponsor: **REP. HOLLY RASER, HD 70**

Opening Statement by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 19.4 - 26}

REP. RASER said that this bill deals with electronic e-mail communications. This is basically called the anti-spam bill. Spam is unsolicited, unnecessary, unwanted e-mail. She shared some of the spam e-mails that she has received in the past few days. Most e-mails are easy to identify as spam because they have information in the subject line that identify them as a vendor. Some e-mails are very deceptive and contain information in the subject line that would cause a person to believe that it is from a friend or acquaintance. There is no way to block and restrict people from sending this type of e-mail because it is a violation of interstate trade. This bill would require anyone who is sending an electronic commercial or message to identify them as advertisements or information with adult content. She recommended that the committee recommend a do pass.

Proponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 26 - Tape: 3; Side: A; 2.2}

Cort Jensen, Consumer Protection Office, said that this bill is modeled after a Federal bill sponsored by Senator Conrad Burns. Many states are getting together to create uniform rules that will require spam to be labeled. It would require a company sending spam to identify it as "ADV" or "ADV-Adult" if it contains adult content. As more states apply this rule, it will make it easier for the Federal law to be adopted.

EXHIBIT 4
DATE 2/21/03
HB 641

Amendments to House Bill No. 641
1st Reading Copy

Requested by Representative Dick Haines

For the House Federal Relations, Energy, and Telecommunications Committee

Prepared by Mary Vandenbosch
February 21, 2003 (10:39am)

1. Page 3, line 20.
Strike: "commission"
Insert: "terminating carrier"

2. Page 3.
Following: line 22
Insert: "(4) An originating carrier that delivers traffic to a terminating carrier, directly or indirectly through a transiting carrier, shall, upon request of the terminating carrier, enter into an interconnection agreement with the terminating carrier, as provided in 69-3-831 through 69-3-839.

(5) If an originating carrier refuses to negotiate an interconnection agreement as provided in subsection (4), a terminating carrier may:

(a) refuse to terminate traffic delivered by the originating carrier; or

(b) file a complaint with the commission. The commission may order compensation to the terminating carrier for the terminating services at the same rate charged by the terminating carrier to other originating carriers."
Renumber: subsequent subsection

- END -

QWEST

EXHIBIT 5
DATE 2/21/03
HB 641

HOUSE BILL NO. 641

INTRODUCED BY D. HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "INTEREXCHANGE SERVICES", "ORIGINATING CARRIER", "TERMINATING CARRIER", AND "TRANSITING CARRIER"; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-3-803, MCA."

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(2) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

(3) "Fund" means the universal service fund established in 69-3-842.

(4) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

(5) (a) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.

(b) the term does not include services provided by a transiting carrier.

(6) "Originating carrier" means a telecommunications carrier from whose network telecommunications traffic originates.

~~(5)~~(7) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the

corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~(8) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~(9) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)~~(10) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)~~(11) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)~~(12) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

(13) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications

traffic terminates.

(14) "Transiting carrier" means a telecommunications carrier that transports traffic from an originating carrier to a terminating carrier.

NEW SECTION. **Section 2. Interexchange services -- nondiscriminatory intercarrier compensation -- billing records -- rulemaking.** (1) AN ORIGINATING CARRIER OF INTEREXCHANGE SERVICES SHALL TRANSMIT WITH THE ORIGINATING CARRIER'S TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER FOR THE TERMINATION OF THE INTEREXCHANGE SERVICES. Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the TERMINATING CARRIER OR local exchange carrier TO RECEIVE INFORMATION FROM THE ORIGINATING CARRIER IN ORDER to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge for traffic originated by the provider of interexchange services ~~or by other carriers~~.

(2) Wireless originated telecommunications delivered to a local exchange carrier network, either directly or through an intermediary transport provider, must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.

(3) A transiting carrier is required to provide billing records to the commission upon request. ~~The commission shall establish by rule the reasonable cost of providing the billing records, and t~~The cost of providing the records must be borne by the originating carrier.

(4) The commission may adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must define the terms "inter-LATA", "intra-LATA", "access tandem", and "host end office" in accordance with commonly accepted industry usage.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable

from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

EXHIBIT 60
DATE 2/21/03
HB 641

Testimony of
Phil Maxwell
Representing 3 Rivers Communications
Concerning HB 641

Mr. Chairman and members of the committee my name is Phil Maxwell, I represent 3 Rivers Communications a local telephone company located in Fairfield Montana.

3 Rivers Communications as a local telephone company provides terminating service to other carriers, including Qwest, by letting them terminate calls on our local network. Telephone calls that originate on another carrier's system and terminate on 3 Rivers' system are subject to termination fees. These fees provide 3 Rivers with a substantial portion of our operating revenues, and help to maintain our network investment and keep or rates affordable. To charge these termination fees for the use of our system, 3 Rivers must be able to identify, and measure this terminating traffic. To be able to identify this terminating traffic the originating carrier must order facilities that provide this required information.

With the technology and systems currently used by Qwest, 3 Rivers is not able to identify the originator of the traffic; and therefore we are unable to measure or bill terminating fees for this traffic. Qwest as the gatekeeper allows large amounts of traffic to terminate onto 3 Rivers local facilities, but will only acknowledge responsibility for a small percentage (20%) of it. They claim that the portion that is not theirs is originated by other carriers, and the records have been lost in transit or are not provided by the originating carrier. 3 Rivers has no way of knowing if this is true or not. And, we have no way of blocking traffic from carriers who don't pay us, because Qwest holds the keys. We are sure that Qwest is being paid to hand this traffic to 3 Rivers. Qwest's refusal to provide the proper technology means that a substantial amount of traffic is avoiding termination fees and being terminated on our system for free. The revenues that are not collected by

3 Rivers are revenues that the company loses for plant upgrades and broadband deployment.

Qwest is the only carrier in Montana that does not use the facilities that all other carriers in Montana use to identify and measure this traffic. At the same time, Qwest requires all carriers connecting to their network to use facilities that allow them to identify and measure the terminating traffic onto their network.

We simply want the ability to bill and collect amounts owed to us, for services we are providing. We feel that this bill goes a long way in providing us this ability.

I thank you for the opportunity to testify before the committee and ask that you vote "Do Pass" on HB 641.

Facts about 3 Rivers

- Celebrates it's 50th anniversary this year
- Employees 200+ people in the state of Montana
- 22,000+ wireline access lines
- 8,400+ wireless customers
- Invested $10,000,000 in 2002 in the state of Montana
- Paid over $1,000,000 in property taxes in 2002
- Total Telephone Operating Revenues of $24 million for 2002

- Total Access revenues billed from 1999 – 2002 = $3.6 million
- Total Access revenues received from 1999 – 2002 = $1.2 million
- Total Access revenues not collected from 1999 – 2002 = $2.3 million

HOUSE OF REPRESENTATIVES
Roll Call
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS COMMITTEE

DATE 2/21/03

NAME	PRESENT	ABSENT	EXCUSED
REP. ROD BITNEY, CHAIRMAN	✓		
REP. ALAN OLSON, VICE CHAIR MAJORITY	✓		
REP. GARY MATTHEWS, VICE CHAIR MINORITY	✓		
REP. DEE BROWN	✓		
REP. EILEEN CARNEY	✓		
REP. TIM DOWELL	✓		
REP. DAN FUCHS	✓		
REP. HAL JACOBSON	✓		
REP. JEFF LASZLOFFY	✓		
REP. SCOTT MENDENHALL	✓		
REP. JOHN PARKER	✓		
REP. DIANE RICE	✓		
REP. BRENNAN RYAN	✓		
REP. JIM SHOCKLEY	✓		

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Montana House of Representatives
Visitors Register

FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS COMMITTEE **Date** 2/21/03

Bill No. HB641 **Sponsor(s)** Rep. Haines

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
Geoff Feiss	MT Telecom Assn.	✓		
Tom Schneider	PSC	X		
Rick Hays	Qwest	✓	with amdts	
Bill Squires	Bluebird Telephone	✓		
Mike Strand	MT Indep. Telecom MITS	X		
Michael Bagley	Verizon Wireless		X	
Margaret Morgan	Western Wireless		X	
Tom Ebzery	Qwest	✓	w/Amendments	
Phil Maxwell	Sprint	X		
Chuck Evilsizer	Roman Tel. Co.	X	oppose amendments	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on February 24, 2003 at 3:00 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Alan Olson, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Daniel Fuchs (R)
Rep. Hal Jacobson (D)
Rep. Jeff Laszloffy (R)
Rep. Scott Mendenhall (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Brennan Ryan (D)
Rep. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	HB 570, 2/10/2003; HJ 26, 2/13/2003; HJ 30, 2/18/2003; HB 702, 2/19/2003
Executive Action:	HJ 26; HB 570; HB 702; HJ 30; HB 641; HB 700

EXECUTIVE ACTION ON HB 570

{Tape: 3; Side: A; Approx. Time Counter: 0.6 - 8.5}

Motion: **REP. OLSON moved that HB 570 DO PASS.**

Motion: **REP. SHOCKLEY moved that HB 570 BE AMENDED.**

Substitute Motion/Vote: **REP. FUCHS made a substitute motion that HB 570 BE TABLED. Substitute motion carried 9-5 with REPS. CARNEY, DOWELL, JACOBSON, PARKER, and SHOCKLEY voting no** in a roll call vote. **REPS. BROWN and MENDENHALL** voted by proxy.

EXECUTIVE ACTION ON HB 702

{Tape: 3; Side: A; Approx. Time Counter: 8.5 - 13.3}

Motion: **REP. OLSON moved that HB 702 DO PASS.**

Discussion:

There was discussion regarding the bill.

Substitute Motion/Vote: **REP. DOWELL made a substitute motion that HB 702 BE TABLED. Substitute motion carried 12-2 with REPS. MENDENHALL and OLSON voting no** by roll call vote. **REPS. BROWN AND LASZLOFFY** voted by proxy.

EXECUTIVE ACTION ON HJ 30

{Tape: 3; Side: A; Approx. Time Counter: 13.3 - 14.1}

Motion/Vote: **REP. DOWELL moved that HJ 30 DO PASS. Motion carried 11-3 with REPS. FUCHS, MENDENHALL, and RICE voting no** by voice vote.

EXECUTIVE ACTION ON HB 641

{Tape: 3; Side: A; Approx. Time Counter: 14.1 - Tape: 3; Side: B; 3.9}

Motion: **REP. OLSON moved that HB 641 DO PASS.**

Motion: **REP. MATTHEWS moved that HB 641 BE AMENDED.**

EXHIBIT(feh41a09)

Discussion:

Mary Vandenbosch explained the amendments. There was other discussion regarding the bill reiterating the role of each of the carriers.

Vote: Motion that HB 641 BE AMENDED carried unanimously.

Vote: Motion that HB 641 DO PASS AS AMENDED carried 13-1 with REP. BROWN voting no.

EXECUTIVE ACTION ON HB 700

{Tape: 3; Side: B; Approx. Time Counter: 3.9 - Tape: 4; Side: A; 7.0}

Motion: REP. OLSON moved that HB 700 DO PASS.

Motion: REP. OLSON moved that HB 700 BE AMENDED.

EXHIBIT(feh41a10)

Discussion:

Mary Vandenbosch explained the amendments.

Vote: Motion that HB 700 BE AMENDED carried 9-5 with REPS. BROWN, CARNEY, DOWELL, JACOBSON, and PARKER voting no by voice vote.

Discussion:

There was some discussion on constitutionality of this bill.

Motion: REP. PARKER moved that HB 700 BE AMENDED.

EXHIBIT(feh41a11)

Discussion:

REP. SHOCKLEY suggested additional amendments, but later withdrew them.

There was much discussion regarding this bill and amendments.

EXHIBIT 9
DATE 2/24/03
HB 641

Amendments to House Bill No. 641
1st Reading Copy

For the House Federal Relations, Energy, and Telecommunications Committee

Prepared by Mary Vandenbosch
February 24, 2003 (8:01am)

1. Page 1, line 22.
Following: "(5)"
Insert: "(a)"

2. Page 1.
Following: line 24
Insert: "(b) The term does not include services provided by a transiting carrier."

3. Page 3, line 10.
Following: "(1)"
Insert: "An originating carrier of interexchange services shall transmit with the originating carrier's telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge the originating carrier for the termination of the interexchange services."

4. Page 3, line 11.
Following: "enable the"
Insert: "terminating carrier or"

5. Page 3, line 12.
Following: "carrier"
Insert: "to receive information from the originating carrier in order"

6. Page 3, line 15.
Following: "services"
Strike: "or" through "carriers"

7. Page 3, line 20 through line 21.
Strike: "commission" on line 20
Insert: "terminating carrier"
Following: "request."
Strike: "The" on line 20 through "and the" on line 21
Insert: "The"

8. Page 3.
Following: line 22
Insert: "(4) An originating carrier that delivers local traffic to a terminating carrier, directly or indirectly through a transiting carrier, shall, upon request of the terminating carrier, enter into an interconnection agreement with the terminating carrier, as provided in 69-3-831 through 69-3-839.

(5) If an originating carrier refuses to negotiate an interconnection agreement as provided in subsection (4), a terminating carrier may:

(a) refuse to terminate traffic delivered by the originating carrier; or

(b) file a complaint with the commission. The commission may order compensation to the terminating carrier for the terminating services at the same rate charged by the terminating carrier to other originating carriers."
Renumber: subsequent subsection

- END -

HOUSE OF REPRESENTATIVES
Roll Call
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS COMMITTEE

DATE 2/24/03

NAME	PRESENT	ABSENT	EXCUSED
REP. ROD BITNEY, CHAIRMAN	✓		
REP. ALAN OLSON, VICE CHAIR MAJORITY	✓		
REP. GARY MATTHEWS, VICE CHAIR MINORITY	✓		
REP. DEE BROWN	✓		
REP. EILEEN CARNEY	✓		
REP. TIM DOWELL	✓ ✓		
REP. DAN FUCHS	✓ ✓		
REP. HAL JACOBSON	✓		
REP. JEFF LASZLOFFY	✓ ✓		
REP. SCOTT MENDENHALL	✓ ✓		
REP. JOHN PARKER	✓ ✓		
REP. DIANE RICE	✓		
REP. BRENNAN RYAN	✓		
REP. JIM SHOCKLEY	✓ ✓		

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HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Federal Relations, Energy, and Telecommunications** recommend that **House Bill 641** (first reading copy -- white) **do pass as amended**.

Signed: Rod Bitney
Representative Rod Bitney, Chair

And, that such amendments read:

1. Page 1, line 22.
Following: "(5)"
Insert: "(a)"

2. Page 1.
Following: line 24
Insert: "(b) The term does not include services provided by a transiting carrier."

3. Page 3, line 10.
Following: "(1)"
Insert: "An originating carrier of interexchange services shall transmit with the originating carrier's telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge the originating carrier for the termination of the interexchange services."

4. Page 3, line 11.
Following: "enable the"
Insert: "terminating carrier or"

5. Page 3, line 12.
Following: "carrier"

Committee Vote:
Yes 13, No 1.

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Insert: "to receive information from the originating carrier in order"

6. Page 3, line 15.
Following: "services"
Strike: "or" through "carriers"

7. Page 3, line 20 through line 21.
Strike: "commission" on line 20
Insert: "terminating carrier"
Following: "request."
Strike: "The" on line 20 through "and the" on line 21
Insert: "The"

8. Page 3.
Following: line 22
Insert: "(4) An originating carrier that delivers local traffic to a terminating carrier, directly or indirectly through a transiting carrier, shall, upon request of the terminating carrier, enter into an interconnection agreement with the terminating carrier, as provided in 69-3-831 through 69-3-839.

(5) If an originating carrier refuses to negotiate an interconnection agreement as provided in subsection (4), a terminating carrier may:

(a) refuse to terminate traffic delivered by the originating carrier; or

(b) file a complaint with the commission. The commission may order compensation to the terminating carrier for the terminating services at the same rate charged by the terminating carrier to other originating carriers."
Renumber: subsequent subsection

- END -

Second Reading

Absent or not voting: None.
Total 0

HB 141 - Representative R. Brown moved consideration of **HB 141** be placed at the bottom of the second reading board. Motion carried.

HB 602 - Representative Galvin-Halcro moved **HB 602** do pass. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, Callahan, Carney, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Galvin-Halcro, Gibson, Golie, Gutsche, Harris, Hawk, Hurwitz, Jackson, Jacobson, Jent, Juneau, Kaufmann, Keane, Lange, Laszloffy, Lehman, Lenhart, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Musgrove, Newman, Noennig, Parker, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Schrumpf, Shockley, Small-Eastman, Thomas, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin.
Total 65

Noes: R. Brown, Brueggeman, Buzzas, E. Clark, P. Clark, Cohenour, Devlin, Everett, Fisher, Fuchs, Gallik, Gallus, Haines, Hedges, Jayne, Kasten, Lake, Lambert, Laslovich, Lawson, Lewis, Malcolm, Morgan, A. Olson, B. Olson, Pattison, Sinrud, Smith, Steinbeisser, Stoker, Wagman, Waitschies, Mr. Speaker.
Total 33

Voted Absentee: Bookout-Reinicke, Lange, Ayes.

Excused: None.
Total 0

Absent or not voting: Gillan, Sales.
Total 2

HB 641 - Representative Haines moved **HB 641** do pass. Motion carried as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bergren, Bitney, Bixby, Bookout-Reinicke, Branae, D. Brown, R. Brown, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jackson, Jacobson, Jayne, Jent, Juneau, Kasten, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Parker, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Ryan, Sales, Schrumpf, Shockley, Sinrud, Small-Eastman, Smith, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 97

Noes: Brueggeman, Gallus, Malcolm.
Total 3

Voted Absentee: Bookout-Reinicke, Lange, Ayes.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Representative Lange present at this time.

HB 695 - Representative R. Brown moved **HB 695** do pass.

Representative Harris moved **HB 695**, second reading copy, be amended as follows :

1. Page 2, line 9.
Following: "primary practice"
Insert: "or in a field that deals with the diagnosis, prognosis, or treatment at issue in the action, that includes knowledge about the standards applicable to the defendant's practice or primary practice, and that requires education or experience, or both, equal to or greater than that which the defendant has with respect to the defendant's practice or primary practice"

Amendment **not** adopted as follows:

Ayes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Golie, Gutsche, Harris, Hurwitz, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lenhart, Lindeen, Musgrove, Newman, Noennig, Parker, Raser, Ryan, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 46

Noes: Andersen, Balyeat, Barrett, Bitney, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Gillan, Haines, Hawk, Hedges, Jackson, Kasten, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 52

Excused: Bookout-Reinicke.
Total 1

Absent or not voting: Cyr.
Total 1

Motion that **HB 695** do pass carried as follows:

Ayes: Andersen, Balyeat, Barrett, Bitney, Bookout-Reinicke, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Forrester, Fuchs, Gillan, Haines, Hawk, Hedges, Hurwitz, Jackson, Kasten, Lake, Lambert, Lange, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, A. Olson, B. Olson, Pattison, Peterson, Raser, Rice, Ripley, Roberts, Rome, Ross, Sales, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 57

Noes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Golie, Gutsche, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Laslovich, Lindeen, Musgrove, Newman, Noennig, Parker, Ryan, Small-Eastman, Smith,

Third Reading

Absent or not voting: None.
Total 0

HB 610 passed as follows:

Ayes: Andersen, Ballantyne, Barrett, Bergren, Bitney, Bixby, Branae, D. Brown, R. Brown, Brueggeman, Buzzas, Callahan, Carney, E. Clark, P. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Facey, Fisher, Forrester, Franklin, Fritz, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hedges, Hurwitz, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lehman, Lenhart, Lewis, Lindeen, Maedje, Malcolm, Matthews, McKenney, Morgan, Musgrove, Newman, Noennig, A. Olson, Parker, Peterson, Raser, Ripley, Rome, Ross, Ryan, Schrumpf, Shockley, Small-Eastman, Steinbeisser, Stoker, Thomas, Wagman, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 83

Noes: Balyeat, Becker, Everett, Hawk, Kasten, Lawson, Mendenhall, B. Olson, Pattison, Rice, Sales, Sinrud, Smith, Waitschies.
Total 14

Excused: Bookout-Reinicke, Jackson, Roberts.
Total 3

Absent or not voting: None.
Total 0

HB 617 passed as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Bitney, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Forrester, Fuchs, Gallus, Haines, Hawk, Hedges, Hurwitz, Jacobson, Kasten, Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lewis, Maedje, Malcolm, Matthews, McKenney, Mendenhall, Morgan, Newman, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Rome, Ross, Ryan, Sales, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 60

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Franklin, Fritz, Gallik, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Jayne, Jent, Juneau, Kaufmann, Lenhart, Lindeen, Musgrove, Parker, Raser, Small-Eastman, Smith, Wanzenried, Weiss, Wilson.
Total 37

Excused: Bookout-Reinicke, Jackson, Roberts.
Total 3

Absent or not voting: None.
Total 0

HB 641 passed as follows:

Ayes: Ballantyne, Barrett, Becker, Bergren, Bitney, Bixby, Branae, R. Brown, Buzzas, Callahan, Carney, E. Clark, Cohenour, Cyr, Devlin, Dickenson, Dowell, Erickson, Everett, Facey, Fisher, Forrester, Franklin, Fuchs, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Hawk, Hedges, Hurwitz, Jacobson, Juneau, Kaufmann,

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Keane, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Lindeen, Maedje, Matthews, McKenney, Mendenhall, Morgan, Musgrove, Newman, Noennig, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Rome, Ross, Ryan, Schrumpf, Shockley, Sinrud, Small-Eastman, Smith, Stoker, Thomas, Waitschies, Wanzenried, Weiss, Wilson, Windy Boy, Witt, Younkin, Mr. Speaker.
Total 82

Noes: Andersen, Balyeat, D. Brown, Brueggeman, P. Clark, Fritz, Jayne, Jent, Kasten, Malcolm, A. Olson, Pattison, Sales, Steinbeisser, Wagman.
Total 15

Excused: Bookout-Reinicke, Jackson, Roberts.
Total 3

Absent or not voting: None.
Total 0

HB 659 passed as follows:

Ayes: Ballantyne, Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Cyr, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Haines, Harris, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lake, Lambert, Laslovich, Lenhart, Lindeen, Maedje, Matthews, Musgrove, Newman, Noennig, Parker, Raser, Ryan, Small-Eastman, Smith, Wanzenried, Weiss, Wilson, Windy Boy.
Total 52

Noes: Andersen, Balyeat, Barrett, Bitney, D. Brown, R. Brown, Brueggeman, E. Clark, Devlin, Everett, Fisher, Fuchs, Hawk, Hedges, Hurwitz, Kasten, Lange, Laszloffy, Lawson, Lehman, Lewis, Malcolm, McKenney, Mendenhall, Morgan, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Rome, Ross, Sales, Schrumpf, Shockley, Sinrud, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 45

Excused: Bookout-Reinicke, Jackson, Roberts.
Total 3

Absent or not voting: None.
Total 0

HB 661 passed as follows:

Ayes: Andersen, Ballantyne, Balyeat, Barrett, Becker, Bitney, D. Brown, R. Brown, Brueggeman, E. Clark, Cyr, Devlin, Everett, Fisher, Fuchs, Haines, Hedges, Hurwitz, Kasten, Lake, Lambert, Lange, Laslovich, Laszloffy, Lawson, Lehman, Lenhart, Lewis, Maedje, Malcolm, Matthews, McKenney, Morgan, Musgrove, Newman, Noennig, A. Olson, B. Olson, Pattison, Peterson, Rice, Ripley, Rome, Ross, Sales, Schrumpf, Shockley, Sinrud, Small-Eastman, Steinbeisser, Stoker, Thomas, Wagman, Waitschies, Witt, Younkin, Mr. Speaker.
Total 57

Noes: Bergren, Bixby, Branae, Buzzas, Callahan, Carney, P. Clark, Cohenour, Dickenson, Dowell, Erickson, Facey, Forrester, Franklin, Fritz, Gallik, Gallus, Galvin-Halcro, Gibson, Gillan, Golie, Gutsche, Harris, Hawk, Jacobson, Jayne, Jent, Juneau, Kaufmann, Keane, Lindeen, Mendenhall, Parker, Raser, Ryan, Smith, Wanzenried, Weiss, Wilson, Windy

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROYAL JOHNSON**, on March 20, 2003 at 5:30 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:
Sen. Royal Johnson, Chairman (R)
Sen. Corey Stapleton, Vice Chairman (R)
Sen. Bea McCarthy (D)
Sen. Walter McNutt (R)
Sen. Gary L. Perry (R)
Sen. Don Ryan (D)
Sen. Emily Stonington (D)
Sen. Bob Story Jr. (R)
Sen. Ken Toole (D)

Members Excused: Sen. Mike Taylor (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Services Division
Marion Mood, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 641, 3/10/2003;
HB 710, 3/10/2003;
HB 637, 3/10/2003
Executive Action: None

HEARING ON HB 641

Sponsor: **REP. DICK HAINES, HD 63, MISSOULA**

Proponents: **Geoff Feiss, MT Telecommunications Assn.**
Rick Hays, Qwest
Bill Squires, Blackfoot Telephone Cooperative
Phil Maxwell, 3 Rivers Communications

Mike Strand, MT Independent Telecommunications Systems
Tom Schneider, PSC

Opponents: **Ron Williams, Western Wireless**
Amy Grmoljez, Verizon Wireless
Chuck Evilsizer, Ronan Telephone Co., Hot Springs Telephone Company
Margaret Morgan, Western Wireless

Opening Statement by Sponsor:

REP. DICK HAINES, HD 63, MISSOULA, presented HB 641 and explained when a phone call is made, the caller utilizes the services of the originating carrier; when the call is answered, the terminating carrier is utilized. The cost of the call goes to the terminating carrier who then bills the originating carrier for cost of the call; most calls, or traffic, is routed through a transit carrier who gets its due from the originating carrier, and who tells the terminating carrier who the originating carrier is so the former can bill the latter. He went on to say in most cases, the originating carrier goes through a large transit carrier such as Qwest and the information needed by the terminating carrier gets lost in the shuffle. Independent telephone companies had worked diligently on getting this situation remedied; in fact, negotiations were still taking place, as evidenced by Amendment HB064101.ate which was the result of the good-faith negotiations and recommendations from wireless and wire line telecommunications providers. He went on to say HB 641 was designed to solve the above mentioned problem in three ways: it required all originating traffic to transmit information necessary to enable the source of the call; it required transit carriers to take the originating call from one network and transfer it to a terminating network to include all identifying information along with the calls they transit; and it required the transit carrier to provide billing records about originating calls. This provides a "back-up" method for the terminating carrier to identify the originating carrier. Lastly, it required originating and terminating carriers to enter into agreements which would establish the terms and conditions by which traffic is exchanged and paid for among networks. This negotiation process mirrors federal statute and ensures carriers are properly compensated for the services they provide. He stated the more involved he got in this process, the more complicated it became but wanted to go on record that good-faith negotiations had taken place involving representatives from large and small companies; without their effort, this bill would not have come about, to the detriment of Montana's consumers.

Proponents' Testimony:

Geoff Feiss, MT Telecommunications Assn. (MTA), submitted **EXHIBIT(ens59a01)**, **Amendment HB064101.ate**, **EXHIBIT(ens59a02)**,written testimony, and **EXHIBIT(ens59a03)**, the "grey bill". He added the PSC had called prior to the hearing, requesting a couple of minor changes in Section 2, (5) which MTA had agreed with, namely to delete "competitive" on the first line, and change language to "the commission shall order compensation to the terminating carriers as allowed by the law"; he promised to have them ready before Executive Action. He stressed negotiations were still ongoing with Qwest and other parties and had resulted in language somewhat different from that which was passed by the House; he hastened to add content had not been altered. He felt these amendments substantially improved the technical aspects without changing the bill's intent, namely to ensure all telecommunications carriers are appropriately compensated for the services they provide.

Rick Hays, Qwest, deferred to previous testimony in the interest of time but wanted to add his company's perspective of what this legislation would do. The issue at hand had been a huge challenge to the industry for a number of years, had been before the PSC, Federal District Court, the 9th District Circuit Court of Appeals, and in the 2001 Legislature. He felt the parties involved had made good progress as to the root cause of the problem, and a consensus was reached among the majority of the parties in endless meetings, phone calls, and e-mails.

Bill Squires, Blackfoot Telephone Cooperative, also rose in support of HB 641, stating his company provided local telephone service to roughly 19,000 subscribers; nearly 70% of the annual revenue came from sources other than local service rates. One part of the revenue comes from the fees and charges Blackfoot Telephone Cooperative assesses other telecommunications companies for using their network to terminate calls, i.e., they would charge a long-distance carrier on a call from Helena to Seeley Lake for using their network in Seeley Lake to terminate the call; the same would apply to calls made from cell phones where they would charge the wireless carrier. Even though the bill was written in "telephonese" for ease of understanding by the industry, it addressed the need for being able to identify the originating carrier to ensure proper compensation. This can be done electronically within the call stream; absent this notification, the terminating carrier had to approach the transit carrier in order to obtain the records. He lamented the fact this was not happening to the detriment of his subscribers; in fact, it had led to a bitter fight between rural exchange carriers and Qwest. HB 641 was a huge step forward towards

correcting this problem; in the past two years alone, his company had lost more than $2 million because there had not been any interconnection agreement, and this amount had to be made up by their customers to keep the company in operation. The unidentifiable calls can neither be stopped nor billed; HB 641 corrected the problem and stopped the "free ride" some originating carriers had heretofore gotten away with and gave the PSC authority to deal with this issue.

Phil Maxwell, 3 Rivers Communications, provided written testimony, **EXHIBIT(ens59a04).**

{Tape: 1; Side: B}
Mike Strand, MT Independent Telecommunications Systems (MITS), agreed with previous testimony and stated this important bill addressed a serious problem.

Tom Schneider, PSC, submitted written testimony, **EXHIBIT(ens59a05)** which included the three amendments **Mr. Feiss** had alluded to. He added this legislation was long overdue because the current situation was unacceptable and inequitable, and it was not defensible.

CHAIRMAN ROYAL JOHNSON, SD 5, BILLINGS, asked each of the proponents whether they had testified on the bill as written or whether they had taken part in developing the amendments and had testified in favor of the grey bill; each one stated they were proponents for the grey bill.

Opponents' Testimony:

Ron Williams, Western Wireless, provided written testimony, **EXHIBIT(ens59a06).** With regard to the negotiation process, he stated his company had not gotten involved until the late stages and then only relating to part of the language in the bill; many other agreements had since been negotiated between Qwest and MTA and between Western Wireless and MTA, and as of Monday, these negotiations had been terminated by MTA. While he understood the plight of the proponents, he stressed this issue impacted wireless carriers as well since they, too, terminated traffic which sometimes originated from other wireless carriers, and sometimes from wire line carriers. Lastly, he clarified even though a lot of money was involved, it did not affect the consumer but the interconnecting carriers.

Amy Grmoljez, Verizon Wireless, agreed with previous testimony and added in her opinion, HB 641 attempted to regulate three different groups, namely the originating, the transiting, and the terminating carriers. Verizon Wireless often had the role of

being both the originating and the terminating carrier, and she stressed they were not asking for "a free ride". She repeated the problems arose when no interconnection agreements were established. She stated Verizon Wireless had not been a key player in the negotiations but wanted to point out language in Section 2, subsection (6) where it stated "a carrier can unilaterally block traffic"; she contended it would create some real consumer problems if someone used their Verizon Wireless phone to make a call to a Blackfoot Telephone subscriber in Seeley Lake, and the terminating carrier, Blackfoot, was granted unilateral authority to terminate this call through this provision. She added they had repeatedly offered to come to the negotiating table during the interim to work on interconnection agreements and to work within existing law and in closing, maintained this legislation was not necessary.

Chuck Evilsizer, Ronan Telephone Company and Hot Springs Telephone Company, stated historically, the transit carrier Qwest had always paid 100% of the tariff access charges to the independent telephone companies no matter where they originated but with the onset of cell phone traffic which used these connections but did not originate with Qwest, they no longer felt they should pay the charges; this refusal led to the litigation. In closing, he submitted **EXHIBIT(ens59a07)**, testimony from **Jay Preston, President of Ronan Telephone Company** and a proposed version of HB 641.

{Tape: 2; Side: A}
Margaret Morgan, Western Wireless, provided written testimony, **EXHIBIT(ens59a08).**

Questions from Committee Members and Responses:

SEN. EMILY STONINGTON, SD 15, BOZEMAN, asked which of the amendments had been requested by Qwest. **Mr. Hays** replied he lost track because numerous requests had been added and then dismissed again. **SEN. STONINGTON** referred to page 5, Subsection (6) of the grey bill which **Ms. Grmoljez** was also concerned about and asked **Mr. Feiss** for his comments. **Mr. Feiss** stated this provision was a last resort for a company but should be available to them; he recognized the effect it would have on their customers and therefore, considered this provision as a last resort. If someone had a business and was not paid for his services, they should have the right to terminate the services. If his company was the originating carrier or the terminating carrier, or both, they would fully expect to pay for or be paid for the services which were rendered; one option was to stop providing the service which were rendered and not paid for. **SEN. STONINGTON** disagreed with his analogy and wondered why this was before the Legislature

since federal and state law was already addressing these interconnection issues, and there were only 9 carriers involved. **Mr. Feiss** stated while he appreciated opponents' testimony, the fact remained that 80% of the terminating traffic is not compensated. He did not argue with the definition of an interconnection agreement which dictated the terms of exchange of traffic between originating and terminating carriers, or with federal law as a detailed description of how an interconnection agreement is entered into, negotiated, or arbitrated; he maintained this was the crux of HB 641.

SEN. KEN TOOLE, SD 27, HELENA, asked how an originating carrier was identified. **Mr. Feiss** explained there was a data channel made up of the number, duration, location, and origination which should accompany an originating call but sometimes did not or it was stripped off along the way; this bill would ensure all calls were accompanied by this information, and if they were not, the transiting carrier would bill the originating carrier because they had the billing record, and then the terminating carrier would get those records from the transit carrier. **SEN. TOOLE** inquired whether the transiting carrier would always be able to identify the originating carrier by the coding. **Mr. Feiss** confirmed this should be the rule but sometimes the transiting carrier did not have the proper information with regard to the originating carrier; this was part of the negotiations and was the reason for establishing a billing record "fall back". **SEN. TOOLE** inquired whether he envisioned this bill to take care of the problems, and **Mr. Feiss** replied the bill required the originating carrier to send this code along, and it required the transiting carrier to transit this code as well. He stressed he did not care what happened with each call; all he cared about was that 80% of the traffic his members terminated was "invisible" and thus presented lost revenue. He thought it only fair for the terminating carrier to be have the same opportunity to charge for traffic it terminated on its network. **SEN. TOOLE** wondered how they would handle blocking calls; what would the consumer hear as a reason for the blockage. **Mr. Feiss** explained this was a last resort; what the caller would hear might resemble pre-recorded messages that all circuits are busy, or that the call cannot go through.

SEN. GARY PERRY, SD 16, MANHATTAN, asked if his member companies had contacted Qwest about this problem. **Mr. Feiss** replied they had and moreover, were involved in heated litigation with Qwest which had led to this legislation. Referring to **Mr. William's** testimony, he repeated Qwest had the responsibility for the billing records and to transmit the calling information, and this was captured in this bill.

SEN. DON RYAN, SD 22, GREAT FALLS, wondered how Qwest was paid for those calls which crossed over their network. **Mr. Hays** explained they pulled this information and put it through their billing system; this enabled them to generate the fees for providing the transit role. **SEN. RYAN** surmised from testimony the terminating carrier did not always get the information enabling him to bill for the calls, and asked how he would solve this problem. **Mr. Hays** replied sometimes the necessary information was not encoded on calls they sent to the terminating carrier; he added for their own billing records, they were able to pull this information off and put it through a special system but they could not put it back on and send it on its way. Terminating carriers did have the option to purchase the billing records from Qwest at a price set by the PSC. He advised whatever information came on the call from the originating carrier was the same information they sent on to the terminating carrier. **SEN. RYAN** determined from his testimony that Qwest did not always send this information on because they stripped it off to obtain information for their own billing record. **Mr. Hays** disagreed, saying they were able to obtain this information because they put it through their billing system; this information was not in the data channel but was based on a number of network factors. **SEN. RYAN** inquired how many interconnection agreements were in place between Qwest and other systems using their network. **Mr. Hays** advised there were more than 75 such agreements. **SEN. RYAN** wondered if they were public record which **Mr. Hays** affirmed, adding they were filed with and approved by the PSC. **SEN. RYAN** asked how the company reconciled the number of calls coming in and going out in case they were challenged as to the correct number of calls by the terminating carrier. **Mr. Hays** replied it depended on the interconnection agreement; typically, identified traffic was sent to the terminating carrier. **SEN. RYAN** asked what percentage of companies operating in Montana they had such agreements with. **Mr. Hays** stated they had interconnection agreements with everybody who did business with Qwest.

SEN. COREY STAPLETON, SD 10, BILLINGS, wondered if Qwest knew 100% of the time, in either role, who the originating carrier was. **Mr. Hays** replied they could identify the calling company by their billing records 100% of the time. **SEN. STAPLETON** referred to the billings records and asked if the purchasing rates were the same for all companies looking to buy them which **Mr. Hays** confirmed. **SEN. STAPLETON** surmised **3 Rivers Communications** must not purchase these records as they testified they only were paid for 20% of the calls they terminated and asked if they did purchase them, would they recover 100% of the monies due them. When **Mr. Hays** agreed, **SEN. STAPLETON** assumed **3 Rivers**

Communications chose not to purchase the identification service from Qwest. **Mr. Maxwell** replied they did not because they were not able to tell if the records were accurate, i.e., if they corresponded to the total number of calls terminated on his network. **SEN. STAPLETON** asked if they had ever purchased them, and **Mr. Maxwell** replied not to his knowledge. **SEN. STAPLETON** wondered how they could make the determination of inaccuracy, and **Mr. Maxwell** advised it was made pursuant to discussions with companies who had purchased them. **SEN. STAPLETON** wondered how he could be a proponent of HB 641 when he relied on hearsay regarding a key issue. **Mr. Maxwell** explained he was a proponent because through this bill, they could receive the information they needed to bill the originating carrier.

SEN. BOB STORY, SD 12, PARK CITY, recalled this bill from the last session and asked what changes had been made. **Mr. Hays** advised the technology provisions had been removed so as not to force anyone to invest in new technology; the attempt was made to provide options through the interconnection agreements and the billings records without specifying brands or types of technology. **SEN. STORY** referred to previous testimony which had stated Qwest used to be the middleman with regard to the logistics by paying for everything which went on someone's system and by collecting for everything coming onto their network; this meant there were no interconnection problems, and he wondered why this practice had ended. **Mr. Hays** explained it ended with passage of the 1996 Telecommunications Act and the advent of hundreds of new competitors. All of these companies had their own services and trunk connections which made it difficult for Qwest to identify and pass through the information; they established their own billing system at that time. Before the Act, it was either Mountain Bell and US West traffic or someone else in the Bell system. **SEN. STORY** wondered how Qwest was paid for transiting calls if they could not identify them, and **Mr. Hays** replied they could identify them but only by going through their billing process; identification was not apparent by the calling stream. **SEN. STORY** suspected the only way a company would come out ahead was by terminating more calls than it originated, and he asked how many of his member companies did just that and if he really wanted to have all this information. **Mr. Feiss** was not sure of the exact balance but assured him he did want the information, saying the interconnection agreement encompassed both the origination and termination exchange traffic. **SEN. STORY** surmised the company losing $2 million with regard to termination probably did not pay for every origination either. **Mr. Feiss** disagreed and explained far more traffic terminated from a wireless carrier than originated to a wireless carrier; he was certain the net effect would still benefit the terminating carrier even if the missing terminating revenues were

compared to the originating revenues between his companies and the ones with whom they had interconnection agreements. **SEN. STORY** wondered if this applied to both interstate and intra-state calls. **Mr. Feiss** advised interstate issues were addressed in the House but led to problems because under federal law, inter-exchange service for wire line carrier was different from the inter-exchange service for wireless carriers; thus, they went from the inter-exchange concept to "local" and "non-local". With a wireless carrier, "local" could encompass a call from Spokane to Missoula whereas with a wire line call, it would be an inter-exchange call. He explained wireless carriers used MTA's (Major Trading Areas) whereas wire line carriers used exchanges. **SEN. STORY** referred back to **SEN. STONINGTON's** concern with regard to blocking calls; if the call could not be identified, how could it be blocked. **Mr. Feiss** replied they could not pick and choose whom to terminate; if they sought an interconnection agreement with a carrier who refused to enter into an agreement or otherwise failed to comply with the provisions of this bill, then they could target that carrier. He was quick to add this provision would not make or break this legislation. **SEN. STORY** ascertained Qwest was a transiting carrier as defined in this bill and wondered what AT&T's role was. **Mr. Feiss** stated this was one of the problems which had come up in the House and the reason for some new language in the bill.

{Tape: 2; Side: B}
AT&T terminated most of his members' traffic as well as that of a number of other long-distance providers over a circuit on his members' network; he added they were able to identify each one and either AT&T paid access revenue for all the carriers it was carrying on an inter-exchange or they paid for all of the traffic they deliver and then charged the individual carriers on their inter-exchange network. **SEN. STORY** wondered why they were opposing this bill, and **Mr. Feiss** surmised it was because of AT&T's wireless division and admitted he was distraught over this because of all they had done to get them to participate, adding they were the ones who were not paying their share.

SEN. PERRY wondered if he had approached Western Wireless to let them know there was a problem, and **Mr. Feiss** replied he had not done so personally but recalled **Mr. Williams** stating they had interconnection agreements with nine of the seventeen carriers in Montana; he added they had not been able to identify traffic based on which they could have contacted Western Wireless. **SEN. PERRY** asked if it would be a prudent measure to go to **Mr. Williams** and talk about this problem. **Mr. Feiss** stated he would if he could identify their traffic; without knowing what to interconnect, there could be no interconnection agreement.

SEN. RYAN asked if any of MTA's members had contacted the PSC with complaints about the lack of payments in order to get this resolved. **Mr. Feiss** stated they had but were told the commission did not have any authority to intervene; thus the litigation which was mentioned earlier. **SEN. RYAN** addressed **Mr. Schneider, PSC**, and asked if they, in fact, had no authority to settle this issue between companies they regulated. **Mr. Schneider** advised this determination was made right after the Federal Act became law; the commission did not have the authority to require interconnection agreements. The PSC felt this bill was the vehicle to close the loophole and give clear authority to the commission resolve these issues. **SEN. RYAN** wondered if passage of HB 641 would take care of the problem so the parties involved would not come back to the Legislature looking for help. **Mr. Schneider** replied he hoped this would resolve and settle the issue to everyone's satisfaction, and they would not have to come back before the Legislature.

SEN. STAPLETON surmised all of the needed information existed, with Qwest being able to identify 100% of the traffic, and he wondered why anyone would try all these different ways to get their money instead of just purchasing the data from Qwest. **Mr. Schneider** replied he did not have a good answer; he opined Qwest was creating a barrier by stripping off information for their own billing use, and other companies had to purchase this information for their billing purposes. He repeated HB 641 was the vehicle to get this resolved. **SEN. STAPLETON** took exception to this, maintaining all the tools to solve this were available; he did not understand why the parties involved appeared as proponents but yet made no attempt to obtain the information they needed from Qwest even though they only collected 20% of the revenue due them. **Mr. Schneider** replied he had no better answer other than to say this had been in litigation for seven years, and the majority of those present, including his staff, were certain each of the elements in the bill would close the loop.

SEN. STONINGTON agreed with **SEN. STAPLETON's** assessment and asked how he could say who was not paying their share while accusing Verizon Wireless and Western Wireless of not paying; she also wondered if they had approached these two companies with regard to establishing an interconnection agreement. **Mr. Feiss** stated in the cases where they could identify the carrier whose traffic is terminating on their network, they did negotiate contracts for the exchange of traffic; however, there was another facet which he explained as follows: in some cases where the traffic was identifiable and interconnection agreements were in place, the wireless carrier filled the circuit with traffic and the circuit went dead but thee terminating carrier was still getting more minutes in on their switch, and they were not identifiable. He

agreed all the pieces of the equation existed but none of the players came to the negotiating table until forced by this legislation. He reiterated it was the large companies who were not paying for the services, and it was small companies who were being cheated.

CHAIRMAN JOHNSON asked him who he invited to take part in the negotiations resulting in this amended bill. **Mr. Feiss** replied they had invited Verizon and Western Wireless, and they had taken part in making up the bill. **CHAIRMAN JOHNSON** wondered if he had asked Ronan Telephone, and **Mr. Feiss** stated the did not see any constructive value in asking them because they had opposed the bill on third reading in the House and continued to oppose it through the amendment process. **CHAIRMAN JOHNSON** surmised everyone who testified at this hearing had been invited to participate, which **Mr. Feiss** confirmed, saying they had talked with everyone either through conference calls or directly. **CHAIRMAN JOHNSON** grew impatient, stating the committee could spend all night talking about this and stated it was the responsibility of the parties involved to get together and settle this, and if anyone had any objections, to voice them right then; he ordered everyone to put their thoughts and suggestions in writing and to turn the papers into the committee by Wednesday of the following week.

Closing by Sponsor:

REP. HAINES closed on HB 641, thanking the chairman for his fortitude in dealing with this issue; he agreed the parties involved should get together and come to an agreement because the needed data and details were only available through interconnection agreements. **CHAIRMAN JOHNSON** asked him to be part of the round table discussions as well.

HEARING ON HB 710

Sponsor: **REP. HOLLY RASER, HD 70, MISSOULA**

Proponents: **Cort Jensen, Department of Administration, Consumer Protection Office**
Rick Hays, Qwest
Jim Kembel, self
Cory Swanson, Bresnan Communications
Forrest Christian, MT Internet

Opponents: **Chuck Evilsizer, MontanaSky.Net/Mooseweb Corp.**

Senate Energy & Telecommunications
Exhibit No. 1
Date 3-20-03
Bill No. HB 641

Amendments to House Bill No. 641
3rd Reading Copy

Requested by Representative Dick Haines

For the Senate Energy and Telecommunications Committee
Not Edited
Prepared by Todd Everts
March 20, 2003 (1:15pm)

1. Title, page 1, line 5 through line 6.
Strike: ""INTERCHANGE" on line 5 through the second "CARRIER"" on line 6
Insert: "CERTAIN TERMS"

2. Title, page 1, line 6.
Strike: "AND"

3. Title, page 1, line 7.
Following: "MCA"
; AND PROVIDING AN EFFECTIVE DATE

4. Page 1.
Following: line 13
Insert: " (2) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9."
Renumber: subsequent subsections

5. Page 1, line 22 through line 26.
Strike: subsection (5) in its entirety
Insert: "(6) (a) "Local telecommunications" means:
(i) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or
(ii) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR section 24.202(a)."

6. Page 1.
Following: line 25
Insert: "(8) "Non-local telecommunications" means:
(a) wireline telecommunications traffic carried by either an interchange carrier or an intra-local access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or
(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR section 24.202(a)."
Renumber: subsequent subsections

7. Page 1, line 26.
Following: "network"
Insert: "a customer originates"

8. Page 1, line 27.
Strike: "originates"

9. Page 3.
Following: line 6
Insert: "(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to an intermediate carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interexchange carriers or providers of intra-local access transport area toll services."

10. Page 3, line 7.
Following: "carrier"
Insert: "or carriers"

11. Page 3, line 8.
Following: "carrier"
Insert: "and that does not originate or terminate telecommunications traffic"

12. Page 3, line 10.
Strike: "**Interexchange services - nondiscriminatory**"
Insert: "**Nondiscriminatory**"

13. Page 3, line 11.
Following: "**billing records -**"
Insert: "**enforcement --**"

14. Page 3, line 14 through line 24.
Strike: "INTERCHANGE" on line 14 through "carrier." on line 24
Insert: "local telecommunications.

(2) An interexchange carrier or provider of intra-local access transport area toll services or other carrier that provides non-local telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating local exchange carriers by means of facilities that enable the terminating local exchange carrier to receive from the originating carrier any and all information the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure and appropriately charge the originating provider of local traffic or the interexchange or intra-local access transport area toll provider of non-local traffic for the termination of their

telecommunications traffic."
Renumber: subsequent subsections

15. Page 3, line 25.
Following: "records"
Insert: "for transit traffic"

16. Page 3, line 26 through line 27.
Strike: "THE" on line 26 through "carrier." on line 27
Insert: "The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (8) of this section."

17. Page 3, line 28.
Strike: "AN ORIGINATING CARRIER"
Insert: "A competitive local exchange carrier or commercial mobile radio services provider "
Following: "LOCAL"
Insert: "telecommunications"

18. Page 3, line 30.
Following: "69-3-839."
Insert: "The interconnection agreement must include rates, terms and conditions for reciprocal compensation for the transport and termination of local traffic. A negotiated or arbitrated reciprocal compensation may include bill and keep arrangements."

19. Page 4, line 1 through line 6.
Strike: subsection (5) in its entirety
Insert: "(6) A terminating carrier may refuse to terminate traffic delivered by the originating carrier that is not in compliance with the requirements of this section.

(7) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-8-305 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. The commission may order compensation to the terminating carrier for the terminating services at the same rate charged by the terminating carrier to other and the commission may order other appropriate relief."
Renumber: the subsequent subsection

20. Page 4, line 7.
Strike: "may"
Insert: "shall"

21. Page 4, line 8 through line 10.
Strike: "define" on line 8 through "usage" on line 10
Insert: "identify which party is responsible for the cost of providing transit records required by this section, as

defined by the industry guidelines for exchange message interface and exchange message records"

22. Page 4.
Following: line 17
Insert: "NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective on July 1, 2003."

- END -

Exhibit No. 2
Date 3-20-03
SB No. HB641

MONTANA
TELECOMMUNICATIONS
ASSOCIATION

History of HB 641-Senate Amendments
For the Senate Energy and Telecommunications Committee
March 20, 2003

MTA has conducted intensive negotiations with nearly all telecommunications parties in Montana since the inception of this bill. The result is a bill that reflects the recommendations--and oftentimes, specific language—offered by the following parties:

- MTA (Montana Telecommunications Association)
- Qwest
- MITS (Montana Independent Telecommunications Systems)
- Mid-Rivers Telephone Cooperative
- NISC (National Information Solutions Cooperative)
- Verizon Wireless
- Western Wireless (Cellular One), and the
- Public Services Commission

The bill began as a humble attempt by MTA to force Qwest to deploy a network technology that would enable terminating local networks to have direct connections to originating carriers, so that the terminating local networks could identify and charge for the services they provide to originating networks. In the beginning, it was MTA v. Qwest.

Literally moments before the House hearing on HB 641, but after several long negotiations between MTA and Qwest, MTA and Qwest agreed to a series of amendments which were adopted by the House FRET committee.

After the House hearing and before 2nd reading in the House, MTA conducted a series of discussions with Western Wireless (Cellular One) and accepted several new modifications, which are reflected in the current amendments being proposed today. There was not enough time to move the "wireless amendments" in the House before 2nd Reading, so the parties agreed to work together further on Senate amendments following Transmittal.

Following Transmittal, Western Wireless invited Verizon Wireless to participate on a conference call with MTA members to discuss their amendments. Verizon had additional concerns they brought to the table. Parties were making progress until one of the wireless parties came unglued and agreement became untenable.

Nevertheless, negotiations continued with wireless and other parties. In fact, MTA accepted several more recommendations from Western Wireless as recently as Monday of this week.

Examples of language in Senate amendment package that reflects Wireless recommendations:

- Sec. 1.
  - (2) Definition of CMRS carrier
  - (6)—as amended. Deleted provision in (6)(i) that referred to wireline-to-wireless calls under "local telecommunications,"
  - included wireless-recommended language in (6)(ii) regarding local telecommunications within a wireless calling area (major trading area).
  - (7) included wireless-recommended language regarding non-local telecommunications.
- Sec. 2.
  - (2) Adopted wireless recommendations to delete (2) and substitute language that better accommodated the concerns and interests of wireless carriers to comply with the bill.
    - As a result of these negotiations, wireless carriers assured MTA that they did not have a problem with the intent of the bill, and in fact that they never have a problem negotiating interconnection agreements with any terminating carrier.
  - (4) Deleted language, by request of Western Wireless regarding payment by the originating carrier for cost of acquiring billing records. Instead, MTA agreed to WW request to provide rulemaking procedure to determine who pays for billing records and under what circumstances.

What we did not agree to:

- We did not agree to eliminate, or reduce the strength of a provision Sec. 2(6), that would enable a terminating carrier to block traffic from an originating carrier that refuses to comply with the law.
  - WW had informed MTA that this issue was not a "drop dead" issue.
- We did not agree to change a provision that the Commission "shall" order an originating carrier to pay the terminating carrier if the originating carrier violates this law and refuses to pay the terminating carrier.
  - Western Wireless introduced this new objection at the last minute (Monday), after MTA had accommodated all of WW's major concerns. WW wants to make this provision permissive, rather than mandatory, to say that the commission "may" order compensation from a carrier that has refused to comply with the law. (We believe WW's position indicates a

Energy & Telecom
Exhibit No. 3
Date 3-20-03
HB 641

2003 Montana Legislature

HOUSE BILL NO. 641

INTRODUCED BY HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "LOCAL TELECOMMUNICATIONS", "NON-LOCAL TELECOMMUNICATIONS", "ORIGINATING CARRIER", "TERMINATING CARRIER", "TRANSIT TRAFFIC" AND "TRANSITING CARRIER"; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-3-803, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Commission" means the public service commission.

(2) "CMRS" means commercial mobile radio service as defined in 47 C.F.R. 20.9

(23) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

(34) "Fund" means the universal service fund established in 69-3-842.

(45) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

~~(5) (A) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.~~

~~(B) THE TERM DOES NOT INCLUDE SERVICES PROVIDED BY A TRANSITING CARRIER.~~

(6) (A) "Local telecommunications" means:

(i) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area.

(ii) CMRS service which originates from or terminates to a CMRS provider within the same major trading area as defined in 47 C.F.R. section 24.202(a).

(7) "Non-Local telecommunications" means:

(i) Wireline telecommunications traffic carried by either an interexchange carrier or an intra-LATA toll provider that originates in one wireline local calling area and terminates on another wireline local calling area.

(ii) CMRS service which originates in a major trading area and terminates in a different major trading area, as defined in 47 C.F.R. section 24.202(a).

(8) "Originating carrier" means a telecommunications carrier from whose network a customer originates telecommunications traffic.

~~(5)~~(9) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~(10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~(11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services

provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)~~(12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)~~(13) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)~~(14) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

(15) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(16) "Transit Traffic" means telecommunications traffic that an originating carrier delivers to an intermediate carrier or carriers for delivery to a terminating carrier. For purposes of this Act, transit traffic does not include traffic carried by interexchange carriers or providers of intra-LATA toll services.

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(17) "Transiting carrier" ~~means~~ is defined as a telecommunications carrier that transports transit traffic from an originating carrier to a terminating carrier. For purposes of this act a transiting carrier does not originate or terminate telecommunications traffic. More than one transiting carrier may be involved in the delivery of telecommunications traffic to a terminating carrier.

NEW SECTION. **Section 2.** ~~**Interexchange services**~~ **-- Nondiscriminatory intercarrier compensation -- billing records -- rulemaking.** (1) AN ORIGINATING CARRIER OF LOCAL TELECOMMUNICATIONS SERVICE SHALL TRANSMIT WITH THE ORIGINATING CARRIER'S TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER FOR THE TERMINATION OF THE LOCAL TELECOMMUNICATIONS SERVICE. ~~Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the TERMINATING CARRIER OR local exchange carrier TO RECEIVE INFORMATION FROM THE ORIGINATING CARRIER IN ORDER to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge of traffic originated by the provider of interexchange services or by other carriers.~~

~~(2) Wireless originated telecommunications delivered to a local exchange carrier network either directly or through an intermediary transport provider must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.~~

(2) Any interexchange carrier or provider of intra-LATA toll services or other carrier that provides non-local telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating local exchange carriers by means of facilities that enable the terminating local exchange carrier to receive from

the originating carrier any and all information the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure and appropriately charge the originating provider of local traffic or the interexchange or intra-LATA toll provider of non-local traffic for the termination of their telecommunications traffic.

(~~3~~4) A transiting carrier is required to provide billing records for such transit traffic to the ~~commission~~ TERMINATING CARRIER upon request. ~~The Commission shall establish by rule the reasonable cost of providing such records, and THE cost of providing the records must be borne by the originating carrier.~~ The transiting carrier shall provide such billing records pursuant to existing policies and agreements until such time as the Commission adopts rules pursuant to subsection (8) of this section.

(~~4~~5) ~~AN ORIGINATING CARRIER~~ A competitive local exchange carrier or commercial mobile radio services provider THAT DELIVERS LOCAL telecommunications TRAFFIC TO A TERMINATING CARRIER, DIRECTLY OR INDIRECTLY THROUGH A TRANSITING CARRIER, SHALL, UPON REQUEST OF THE TERMINATING CARRIER, ENTER INTO AN INTERCONNECTION AGREEMENT WITH THE TERMINATING CARRIER, AS PROVIDED IN 69-3-831 THROUGH 69-3-839. The interconnection agreement shall include rates, terms and conditions for reciprocal compensation for the transport and termination of local traffic. A negotiated or arbitrated reciprocal compensation can include bill and keep arrangements.

~~(5) IF AN ORIGINATING CARRIER REFUSES TO NEGOTIATE AN INTERCONNECTION AGREEMENT AS PROVIDED IN SUBSECTION (4),~~ A TERMINATING CARRIER MAY:

~~(A)~~REFUSE TO TERMINATE TRAFFIC DELIVERED BY THE ORIGINATING CARRIER ~~OR~~ which is not in compliance with the requirements of this section.

(~~B~~7) Any telecommunications carrier registered to provide telecommunications services in Montana as required by 69-3-805 may FILE A COMPLAINT WITH THE COMMISSION seeking enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. THE COMMISSION ~~MAY~~ shall ORDER COMPENSATION TO THE TERMINATING CARRIER FOR THE TERMINATING SERVICES AT THE SAME RATE CHARGED BY THE TERMINATING CARRIER TO OTHER ORIGINATING CARRIERS and may order other appropriate relief.

(~~7~~8) The commission ~~shall~~ may adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this

section. The rules must define the terms "inter-LATA", "intra-LATA", "access tandem", and "host end office" in accordance with commonly accepted industry usage, identify which party is responsible for the cost of providing transit records required by this section, as defined by the industry guidelines for exchange message interface and exchange message records.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective on July 1, 2003.

- END -

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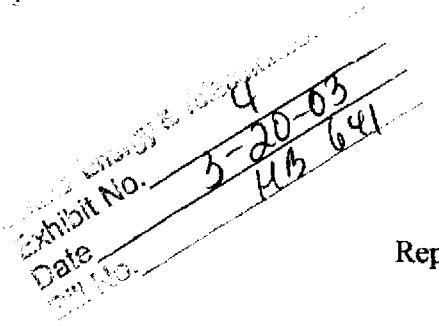

Testimony of
Phil Maxwell
Representing 3 Rivers Communications
Concerning HB 641

Mr. Chairman and members of the committee my name is Phil Maxwell, I represent 3 Rivers Communications a local telephone company located in Fairfield Montana.

3 Rivers Communications as a local telephone company provides terminating service to other carriers by letting them terminate calls on our local network. Telephone calls that originate on another carrier's system and terminate on 3 Rivers' system are subject to termination fees. These fees provide 3 Rivers with a substantial portion of our operating revenues, and help to maintain our network investment and keep our rates affordable. To charge these termination fees for the use of our system, 3 Rivers must be able to identify, and measure this terminating traffic. To be able to identify this terminating traffic the originating carrier must order facilities that provide this required information and the transiting carrier must allow the information to be passed on to 3 Rivers.

With the technology and systems currently being used, 3 Rivers is not able to identify the originator of the traffic; and therefore we are unable to measure or bill terminating fees for this traffic. The transiting carriers of the calls are the gatekeeper and allow large amounts of traffic to terminate onto 3 Rivers local facilities, but 3 Rivers is only able to identify a small portion (20%) of it. The identifiable portion is getting smaller every year; in 1999 it was 50% and has trended down to 14% in 2002. The transiting carriers claim that other carriers originate the portion that is not theirs, and the records have been lost in transit or are not provided by the originating carrier. 3 Rivers has no way of knowing if this is true or not. And, we have no way of blocking traffic from carriers who don't pay us, often because the information we need resides with the originating carrier or with the transiting carrier, but ***not*** with us.

The current situation means that a substantial amount of traffic is avoiding termination fees and being terminated on our system for free. The attached fact sheet shows that from 1999 through 2002 3 Rivers terminated a total of $3.6 million of traffic that should have been subject to termination fees. However, we received access revenues of $1.2 million during that time. The result is that $2.3 million of revenues were not collected. The revenue loss equates to 33 million minutes of telephone calls over the 4-year period and 11 million minutes for the year 2002 alone. The revenues that are not collected by 3 Rivers are revenues that the company loses for plant upgrades, broadband deployment or further investment and for employment opportunities.

We simply want the ability to bill and collect amounts owed to us, for services we are providing. We feel that this bill goes a long way in providing us this ability.

I thank you for the opportunity to testify before the committee and ask that you vote "Do Concur" on HB 641.

Facts about 3 Rivers

- Celebrates it's 50th anniversary this year
- Employees 200+ people in the state of Montana
- 22,000+ wireline access lines
- 8,400+ wireless customers
- Invested $10,000,000 in 2002 in the state of Montana
- Paid over $1,000,000 in property taxes in 2002
- Total Telephone Operating Revenues of $24 million for 2002

- Total Access revenues billed from 1999 – 2002 = $3.6 million
- Total Access revenues received from 1999 – 2002 = $1.2 million
- Total Access revenues not collected from 1999 – 2002 = $2.3 million

Exhibit No. 3
Date 3-20-03
HB 641

HB 641 -- SHORT FORM TESTIMONY OF PSC

Senate Energy and Telecommunications Committee
March 20, 2003

Mr. Chairman and committee members, I am Tom Schneider, Vice-Chairman, Montana Public Service Commission (PSC).

HB 641 is important, represents a great deal of good work, and solves a problem.

The PSC supports HB 641.

The PSC suggests two amendments. The main proponent of HB 641 has indicated agreement in concept with the amendments. The amendments are explained in PSC written testimony, with an amendment form attached for the committee's consideration. In summary the amendments are:

1. New Section 2, sub-section 5, "competitive local exchange carrier" must be amended to "local exchange carrier" so that the law applies to competitive and incumbent local exchange carriers alike.

2. In New Section 2, sub-section 7, the terminology "at the same rate charged by the terminating carrier to other originating carriers" must be amended in some fashion because the existence of a "same rate" is unlikely and there may be no rate for carriers not having interconnection agreements.

The PSC also anticipates there may be opposition to New Section 2, sub-section 7 terminology "the commission shall order compensation." The argument may be that the language should be permissive (*i.e.*, "may order"). The PSC supports "shall order."

HB 641 -- TESTIMONY OF PSC

Senate Energy and Telecommunications Committee
March 20, 2003

Mr. Chairman and committee members, I am Tom Schneider, Vice-Chairman, Montana Public Service Commission (PSC).

HB 641 is important and represents a great deal of work of interested persons and the legislature. A problem exists, it needs to be solved, and HB 641 solves it. With qualification the PSC supports HB 641 in its final proposed form, meaning that form which includes today's amendments identified or offered by or on behalf of the Montana Telecommunications Association (MTA).

At the time this PSC testimony was prepared MTA and others are considering the following. If these are included in the final form, and it appears they will be, the PSC has no problems with HB 641.

1. In New Section 2, sub-section 5, the term "competitive local exchange carrier" must be amended to "local exchange carrier" so that the law applies to competitive local exchange carriers and incumbent local exchange carriers alike. To do otherwise would be discriminatory to competitive local exchange carriers. The problem addressed in sub-section 5 can occur with incumbent local exchange carriers as well as competitive local exchange carriers. The problem solving nature of sub-section 5 is incomplete without the amendment.

2. In New Section 2, sub-section 7, the terminology "at the same rate charged by the terminating carrier to other originating carriers" must be amended to strike "same rate" and replace it with "average rates" and when no average is available "the appropriate rate as determined by the commission." Other amendments may accomplish the same thing. Amendment is essential because there can be the situation where there is no "same rate," rates being different as negoiated, or rates being non-existent because of no existing interconnection agreement.

The above suggested changes are reflected in formal amendment format on the attached page.

The PSC also anticipates there may be opposition to New Section 2, sub-section 7 terminology "the commission shall order compensation." The argument may be that the language should be permissive (*i.e.*, "may order"). The PSC supports "shall order."

HB 641 -- PSC PROPOSED AMENDMENT

Senate Energy and Telecommunications Committee
March 20, 2003

NOTE: These suggested amendments pertain to a bill presently in the amendment work-in-progress stage. The final draft was not available at the time of this writing.

NEW SECTION. Section 2.

At line _____ (sub-section (5)):

following: "~~AN ORIGINATING CARRIER~~ A"
strike: "competitive"

At line _____ (sub-section (7)):

Option 1

following: "FOR THE TERMINATING SERVICES AT THE"
strike: "same"
insert: "average"
following: "CHARGED BY BY THE TERMINATING CARRIER TO OTHER ORIGINATING CARRIERS"
insert: ", or, if no average is available, the appropriate rate as determined by the commission,"

Option 2

following: "THE COMMISSION ~~MAY~~ shall ORDER COMPENSATION TO THE TERMINATING CARRIER"
strike: "TO THE TERMINATING CARRIER FOR THE TERMINATING SERVICES AT THE SAME RATE CHARGED BY THE TERMINATING CARRIER TO OTHER ORIGINATING CARRIERS"
insert: "as allowed by law"

...te Energy & Telecom...
Exhibit No. 6
Date 3-20-03
... HB 641

TESTIMONY OF WESTERN WIRELESS BEFORE THE MONTANA SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE IN OPPOSTION TO THE "NON-DISCRIMINATORY INTERCARRIER COMPENSATION ACT"

Mr. Chairman and members of the Committee, thank you for the opportunity to comment on behalf of Western Wireless regarding the proposed legislation dealing with "nondiscriminatory payment of intercarrier compensation".

This proposed legislation deals with the somewhat obscure, highly technical matters of how telecommunications carriers exchange traffic, how the traffic is recorded for billing purposes, and how those carriers compensate one another for terminating traffic. The language in the bill and the amendments you have before you attempt to establish the technical rules of interconnection that should be reserved for negotiation between carriers or federal and state regulation. As such, this proposed legislation is wholly unnecessary and infringes upon the rights of carriers to negotiate the terms of interconnection and existing Federal and state regulations as well as industry standards for interconnection. It is for these reasons that Western Wireless asks that you reject this proposed legislation.

NOBLE INTENT:

Before I describe why this legislation is contrary to well-established interconnection standards at the federal and state level, let me discuss what I understand to be the rationale for even considering this bill:

Purportedly, this legislation was proposed by several Montana independent telephone companies out of frustration with the detail and the price of call records they receive from Qwest. While Western has not been a party to the discussions between Qwest and the telephone companies to resolve this matter, the telephone companies have expressed some of the principles they believe should apply to resolution of their concerns. The principles that underlie corrective action for these telephone company concerns are principles that Western Wireless can agree with:

- Originating telecommunication carriers should provide industry standard call data when originating calls to other carriers.
- A telecommunication carrier that transits telecommunications traffic between two other carriers should maintain the integrity of call data provided by the originating carrier.
- Telecommunication carriers that terminate traffic should be responsible for recording and billing for the traffic using industry standard call data associated with processing a call.

- Telecommunication carriers seeking compensation for origination, termination, or transit of telecommunications traffic should be responsible for the costs of generating bills for that compensation.

Unfortunately, these principles are not reflected in the text of House Bill 641 or the proposed amendments.

REDUNDANT LEGISLATION – ANSWERS ALREADY EXIST IN LAW AND PRACTICE!

The problem with this legislation is that it is contrary to well-established standards for interconnection at the federal and state level. There already exists other, more direct, avenues available for these telephone companies to resolve their concerns.

- The Montana Code 69-2-834 thru 69-3-839. The Code provides a method for dealing with all issues associated with the interconnection of telecommunication Carriers. The Code promotes negotiation of interconnection but provides for complaint resolution.

- The Federal Telecommunications Act of 1996 is dedicated to fair resolution of issues concerning interconnection and compensation between carriers. There are many provisions that deal with the obligation of one carrier to another. Section 251 of the Telecommunications Act requires interconnection negotiations and Section 252 provides for arbitration and complaint resolution.

- Sharing concerns directly with other carriers by clearly identifying an issue and working out means to resolve it. In other words, negotiating an agreement to deal with interconnection issues.

Each of these existing tools to solve telephone company concerns are vested in the principle that two carriers that exchange traffic can and should pursue agreements to resolve specific issues associated with interconnection and traffic exchange. In other words, negotiated interconnection arrangement between two carriers is required under the 1996 Act and is a proven approach across the country and here in Montana.

Now here are some facts from Western Wireless' actual experience in Montana that fly in the face of a requirement for additional legislation:

- Western Wireless has negotiated interconnection agreements with nine Montana telephone companies. Each of those agreements has a provision

for resolving disputes or dispute resolution is subject to a commission complaint process.

- Western has never turned down a Montana telephone company's request to negotiate an interconnection agreement.

- Western Wireless has not received a dispute or complaint from any of these telephone companies concerning the call traffic they receive directly from Western Wireless or indirectly from Western Wireless via Qwest.

- In recent weeks, Western has reaffirmed its offer to negotiate interconnection agreements with any Montana telephone company. No telephone company has contacted Western to do this.

- Western Wireless receives transit traffic from Qwest that is, essentially, the same as traffic received by the telcos from Qwest. Western is not aware of any problems with the call data received from Qwest either directly or in their role as a transit carrier.

Clearly, other avenues already exist for telecommunications carriers to insure they are being treated fairly on interconnection and compensation matters. Unfortunately, it appears the telephone companies behind this bill would prefer to create new legislation that is redundant, that is imprecise, and that would infringe upon the interconnection rights of carriers and could be contrary to federal and state law, as well as industry practices.

WHAT SHOULD HAPPEN TO THE PROPOSED LEGISLATION?

Western Wireless asks the Committee to oppose this legislation.

To the extent that this Committee has concerns about issues of interconnection between two carriers, those concerns should be directed to the Public Service Commission for resolution so that complex operational issues can be properly addressed.

To the extent that unresolved issues exist with respect to the exchange of traffic between telecommunications carriers, those highly-technical issues should be resolved through the administrative process, not through legislation. If this Committee nonetheless believes some action is required, Western Wireless urges the Committee to adopt the following general principles to guide the state commission's resolution of unresolved interconnection issues:

- Presume that negotiated interconnection agreements between two carriers are the preferred method for handling interconnection and compensation issues between the parties.

- Encourage the establishment of interconnection agreements between all carriers.
- Seek traffic record exchange governed by industry standards including technical specifications for interconnection facilities, call record types, and compensation matters.
- Recognize that wireless traffic is subject to different rules than wireline 'interexchange' traffic under the Federal Telecommunications Act.
- Recognize that the role, function, and compensation associated with the 'transit' function is different than that of the call originator or terminator.
- Demand precise articulation of issues and evidence of good faith attempts to resolve issues between two carries, before an entire industry is subjected to an expensive and time consuming process.

On behalf of Western Wireless, thank you for allowing me to provide comments on this matter.

Exhibit No. 7
Date 3-20-03
Bill No. HB 641

TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 641
BEFORE THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE

MARCH 20, 2003

By Ronan Telephone Company and Hot Springs Telephone Company
Jay Wilson Preston, President of Ronan Telephone Company
Ivan C. Evilsizer, Attorney for Ronan Telephone and Hot Springs Telephone

Dear Chairman Johnson and Members of the Committee:

I am Jay Preston, President of Ronan Telephone Company. I regret not being able to testify in person on HB641 as I am out of the state today. Ronan Telephone and Hot Springs Telephone Company stands in opposition to HB641 and I urge you to kill this Bill for a very simple reason: it evolved into a bad Bill in the House and continues to evolve into a worse Bill here in the Senate. If passed, it will translate into bad law on an issue that should have never come before the Legislature in the first place. This issue should not be wasting your time, particularly during our fiscal crisis when you need to focus on Montana's **REAL** problems.

Ronan is in a unique circumstance with regards to this Bill because we already have the kind of interconnection with Qwest that the original draft of this legislation sought to make mandatory for all of the rural telephone companies in the State. Our experience strongly suggests that Qwest could provide what the industry calls "Feature Group D Trunking" to the Co-ops with nothing more than a few keystrokes on a computer. I believe the only reason Qwest refuses to do so is because it so would diminish their monopoly. As mentioned, Ronan has this arrangement with Qwest today. The information we get with Feature Group D enabled us to determine that between August 2002 and the end of 2002, Qwest had been sending Interstate traffic to Ronan in apparent violation of federal law. The details of this incident can be found on the web at http://www.ronantelco.com/qwest.htm.

Ronan was a reluctant supporter of the original intent of this Bill even though we have always believed that Feature Group D alone does not solve this problem. We also think it is premature to address this issue in the Legislature when the proper forum for it right now is in the Courts. The issue is now pending before the Montana Federal District Court in Great Falls, on remand from the Ninth Federal Circuit Court of Appeals in San Francisco, and another case is pending in Federal Court in Billings.

Qwest opposed the original version of this Bill and succeeded in attaching an amendment in the House that will confuse this court case. The additional amendments you are being asked to approve are being presented to this Committee as a "consensus" (as if Qwest and the Montana Telephone Association represent the entire telecommunications industry in Montana, which they definitely do not!). We believe that this attempt to resolve the problems created by the House amendments create many more new problems and ambiguities. We have attached a detailed list of these problems to our written testimony. These are extremely complicated issues of federal telecommunications law and federal/state preemption issues that are impossible to explain in the time frame of this hearing as many of us in the industry fail to understand this legal morass with full time and effort. So if you feel confused, console yourselves with the knowledge that most of us "experts" are probably just as confused as you are.

With or without these new amendments, Ronan Telephone Company and Hot Springs Telephone Company remain opposed to HB641. This Bill started as pablum, was poisoned by the Qwest amendments in the House, and will be transformed into meaningless mush by these new amendments you are being asked to approve. If this Bill passes, you will guarantee that the Courts will be busy for years to come trying to interpret and untangle the unholy mixture of conflicting federal and state provisions this Bill creates! The wisest course for this Committee to take is to kill this Bill now and tell the proponents come back next session if they still have a problem at that time.

All one has to do is to glance at the latest amended version of HB 641 on a computer screen with Microsoft Word to see the problem. Even with a specialist's knowledge of the convoluted details of modern telecommunications law, the four color coded depiction of the various generations of amendments and the massive sections of strikeouts make this Bill virtually impossible to understand. This "new

and improved" version of HB 641 is NOT what the House passed, it is an entirely different Bill.

I think what bothers me most about this Bill is the extent to which it demonstrates how the Cooperatives in Montana use this Legislature as a surrogate Public Service Commission. Since they refuse to be subject to Commission jurisdiction, they bring issues before the Legislature that would normally be addressed in the regulatory forum. An issue such as this would typically involve expert witnesses and specialist Commission staff in a process that would take a year or more to hear and resolve. You are being asked to understand and decide these complex issues in thirty minutes or less! Now is as good a time as any for you to send my Co-op colleagues the message that if they want the benefits of regulation, they should also bear the burdens of regulation! They have had their cake and eaten it too, for far too long!

You were elected to the Senate, not the Public Service Commission, and the process that has led to the convoluted, ambiguous, and confusing Bill before you today demonstrates in a very palpable way why the Legislature should steer clear of issues that truly belong before the PSC. You have much more important things to do, particularly this year.

Thank you for your kind consideration.

HB 641 OPPOSITION
LEGAL AND TECHNICAL ISSUES
RE: Amendments which will be offered to the Committee

I. CONFUSES PENDING LITIGATION

"Confuses" the TUT Case (pending Federal Litigation of Independent Montana companies seeking recovery of unpaid access from Qwest): *3 Rivers et. al v. Qwest,* and *Mid-Rivers v. Qwest.*

The issue in those cases is whether Qwest must pay for "transiting traffic" (which includes wireless traffic) terminating to Independent companies over Qwest trunk groups. A main argument in those cases is that the traffic is Qwest interexchange traffic, and the long distance carrier must pay for terminating access (which is a longstanding and traditional compensation mechanism).

II. CONFUSES EXISTING PSC RULINGS AND TARIFFS

Confuses the application of existing Tariffs approved by the Montana PSC with respect to terminating access charges.

Questions the ruling by the Montana PSC, that rural companies are exempt from negotiating Interconnection Agreements, and that Reciprocal Compensation arrangements can be established via Tariff.

Sec. 1(16): Confuses "transiting carriers" and interexchange carriers. What is the practical difference between these two types of carriers? And, what legal rationale is there for different treatment. This raises issues of Constitutional Equal Protection, Due Process, and discrimination.

III. INAPPROPRIATELY CODIFIES FEDERAL POLICY INTO MONTANA LAW

A. The FCC "Major Trading Area" rule for "local wireless service" is completely inappropriate for a rural state such as Montana, and creates an unlevel competitive playing field for wireline v. wireless competition, and damages the ability of Montana wireline carriers to obtain reasonable compensation for their services.

B. The "Bill & Keep" provision inappropriately includes this concept into Montana law without any qualification. It is critical that any such arrangements account for cost differences between networks, and that the traffic and cost structures between the networks be equal, before "Bill & Keep" is allowed The policy of "symmetry" which is implicit in this concept is also improper without these qualifications.

These Federal policies are inappropriate for Montana.

IV. TECHNICAL PROBLEMS AND LIMITATIONS

The Bill has very little impact since even with "Feature Group D" connections, insufficient data can be measured by the Independent Montana companies to actually bill originating carriers (Sec. 2(1)). RTC has had "Feature Group D" from Qwest, but still lacks sufficiently detailed information (or a contractual relationship) to bill the originating carriers. Some local companies may have equipment with greater capabilities (3 Rivers and Blackfoot/DMS100 switches), but most do not.

Also, although the Bill purports to allow termination for non-payment, this is not a viable option since (to the best of RTC's knowledge) traffic cannot be selectively blocked on a trunk group (with most if not all types of equipment).

If this is not technically possible, a law will not help!

V. POSSIBLE PREEMPTION BY FEDERAL ACT

Sec. 2(5): purports to require an originating carrier to enter into an interconnection agreement, etc. This provision will simply lead to lengthy litigation.

- 47 USC 252(a)(1) only allows competitors, at their option to request interconnection agreements.

- wireless originating carriers will contend that this is preempted by 47 U.S.C. 332, which preempts state entry and rate regulation of wireless carriers).

Sec. 2(1): obligations imposed on wireless carriers to deliver traffic that can be measured, etc.

- wireless carriers would argue preemption by 332.

Sec. 2(7) attempts to create new obligations of wireless carriers to compensate other carriers for traffic – may be preempted by 251 and 332 of Federal law.

VI. VAGUE AND AMBIGUOUS

There are many provisions of this Bill and the amendments, which are vague and ambiguous. It is unclear exactly what is intended in this Bill, which will result in continued uncertainty and litigation. For example:

Sec. 2(7): which rate applies to terminating traffic, or how to determine the appropriate rate? What does "the same rate charged by the terminating carrier to other originating carriers." mean? Is this an access rate, an interconnection rate, or some other undefined rate? Regulated carriers have tariffs which apply to such traffic. There are many interconnection agreements which might apply.

VII. LOCAL SEVEN DIGIT DIALING

Absent an Interconnection agreement, this Bill institutionalizes non-local calling for wireline to wireless calls (ie. many rural customers will still have to dial 1-406-NXX-XXXX and pay long distance charges for these calls). Only direct local connection solves this.

RTC PROPOSED RE-DRAFT of HB 641

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR EQUITABLE AND NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "ACCESS SERVICES," "INTEREXCHANGE CARRIER," AND "INTEREXCHANGE SERVICES;" AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. **Definitions**. As used in this part, the following definitions apply:

(5) "Interexchange services" means all wireline and wireless telecommunications services, including but not limited to inter-LATA and intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.

"Feature Group D trunk facilities" means a trunk side equal access switched voice access connection interconnecting Interexchange Carrier networks with a Local Exchange Carrier network as described and defined in the National Exchange Carrier Association, Inc. Tariff FCC No. 5, Section 6.8 on Pages 6-89 through 6-100, as issued February 23, 2000 and made effective March 9, 2000.

"identify and measure" means that the local exchange carrier shall be able to record the calling party number, the identity of the originating carrier, and the call duration of each call, at the access tandem voice switch or host end office voice switch.

"wireline local calling area" means the local calling area for each community in Montana in which customers of the incumbent local exchange carrier can make toll free local calls.

Renumber (5) through (10) as (6) through (11).

NEW SECTION. **Section 2. Interexchange services--nondiscriminatory intercarrier compensation.**

1. Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of Feature Group D trunk facilities which enables the local exchange carrier to identify and measure this terminating telecommunications traffic originated by other carriers. Local exchange carriers shall have access to such trunk facilities at either the

access tandem voice switch or host end office voice switch in order to identify, measure and appropriately charge for traffic originated by the provider of interexchange services or by other carriers.

2. Wireless originated telecommunications that is delivered to a local exchange carrier network for termination on the network of a third party must be by means of trunk facilities capable of allowing the local exchange carrier to identify and measure this terminating telecommunications originated by any wireless carrier and in such a way that the originating telecommunications provider can be identified and the originating wireless telecommunications can be measured by the local exchange carriers.

3. Any provider of interexchange services in Montana shall compensate the local exchange carrier for all interexchange services originated from and/or terminated to the local exchange carrier as provided in Commission approved Intrastate Access Service Tariffs of the local exchange carrier or as provided in the equivalent access service contracts and/or price list arrangements of unregulated Local Exchange Carriers.

4. Nothing in this section shall preclude or supercede any local interconnection arrangements between carriers pursuant to 47 U.S.C. Section 251(b)(5).

5. The commission may adopt rules for the implementation of [this section 2]. Rules must provide for the expedited resolution of complaints filed under this section.

NEW SECTION. **Section 3. Codification instruction**. [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8; and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5. Effective date**. [This act] is effective on passage and approval.

-END-

Exhibit No. 8
Date 2/11/09
HB 641

Testimony Before the Senate Energy and Telecommunications Committee In Opposition to HB 641

Mr. Chairman, members of the Committee, thank you for the opportunity to comment on behalf of AT&T Wireless, Sprint Corp., and T-Mobile USA regarding the proposed nondiscriminatory compensation bill. We recognize that this is a difficult issue for all involved and commend the Legislature for its willingness to receive input from all interested parties.

As a group, we are concerned with the provisions of House Bill No. 641 on both procedural and substantive grounds and we encourage the Committee to reject this proposed legislation.

First, this bill attempts to address intercarrier signaling protocols and billing arrangements, an extremely complex area of telecommunications operations and one that is already the subject of extensive industry standards. Changes to these signaling protocols and billing platforms can have far reaching implications and many unintended consequences. We believe that a regulatory body with expertise in the area of telecommunications standards and regulation is better suited to address these issues. Accordingly, we encourage the legislature to refer this matter to the Montana State Public Service Commission for consideration and review.

Second, the legislation attempts to impose an obligation on one group of carriers without addressing the responsibility of all the carriers involved in a call. As drafted, the legislation is entirely one sided and attempts to solve a poorly defined problem by imposing all costs on a particular segment of the industry. If the legislature intends to address the exchange of records, it must address the responsibilities of all parties and balance the alternative means by which this exchange of information can be achieved.

While we fully support the exchange of records sufficient to permit all terminating carriers to bill for the provision of terminating services, including the right of wireless carriers to bill local exchange carriers for terminating landline originated traffic, this legislation fails to address the steps necessary for this to be achieved.

The legislation provides that "An originating carrier of interexchange services shall transmit with the originating carrier's telecommunications traffic information necessary to enable the terminating carrier to identify, measure and appropriately charge the originating carrier." As discussed below, it is unclear what information is not currently being exchanged and why a need exists for a change to the existing industry standards. However, if carriers are expected to increase the amount of data exchanged in the traffic stream, this can only be accomplished by using a new signaling protocol.

Notably, the proposed legislation explicitly excludes the transiting carrier, in this case Qwest Communications, from any obligation to support the exchange of billing information. We do not believe it is appropriate to require small independent telephone companies, competitive local exchange carriers, wireless carriers and interexchange

carriers to modify their procedures governing records exchange without imposing an obligation on Qwest to support this records exchange.

As noted above, the legislation is also fatally flawed in that it does not address what information the legislature deems necessary to "enable the terminating carrier to identify, measure, and appropriately charge" for traffic that is not being exchanged today. Extensive industry standards already exist which define the precise pieces of data to be exchanged, the format for that data and the order in which it is transmitted for each type of connection facility or signaling protocol. No carrier is at liberty to modify these industry standards unilaterally for the obvious reason that all systems would break down if data was not transmitted in the same uniform manner. By imposing a vague legislated obligation, carriers could attempt to send information in any number of formats, resulting in the complete disruption of telecommunications network.

The legislation is also self contradictory in that it both requires originating carriers to transmit "sufficient" billing information with its voice traffic, and then also requires the originating carrier to provide separate billing records to a terminating carrier upon request. If a carrier transmits sufficient information to permit billing, it is unreasonable to also impose the cost of generating separate billing reports to the same terminating carrier. Indeed, this is contrary to the regulatory regime established by the Federal Communications Commission.

The FCC has explicitly recognized that "to implement transport and termination pursuant to section 251(b)(5), carriers, including small incumbent LECs and small entities, may be required to measure the exchange of traffic, but we believe that the cost of such measurement to these carriers is likely to be substantially outweighed by the benefits of these arrangements." *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* CC Docket 96-98, First Report and Order, paragraph 1045. Thus, under federal law, each carrier, including small incumbent carriers, have the obligation to measure traffic terminated on their networks and they are not free to avoid this obligation or impose the cost of such measurement on originating carriers.

Finally, we are concerned with this legislation to the extent it attempts to impose interconnection obligations or negotiating responsibilities other than those created under the Telecommunications Act of 1996. Congress and the FCC have established an extensive regulatory regime governing the manner in which interconnection negotiations are to be conducted and attempts to modify this regime would create confusion and, ultimately, could be unlawful.

As noted above, we suggest that this is a complex and highly regulated area of telecommunications. To the extent that the legislature has concerns about the manner in which companies exchange records or pay compensation, these concerns should be forwarded to the Montana Public Service Commission for resolution.

We therefore ask the Committee to oppose this legislation.

On behalf of AT&T Wireless, Sprint Corp., and T-Mobile USA, thank you for allowing us to provide comments on this issue which is so critical to our industry and your constituents.

MONTANA SENATE
2003 LEGISLATURE
ENERGY & TELECOMMUNICATION
ROLL CALL

DATE 3-20-03

NAME	PRESENT	ABSENT	EXCUSED
SEN. WALT McNUTT	✓		
SEN. DON RYAN	✓		
SEN. BEA McCARTHY	✓		
SEN. GARY PERRY	✓		
SEN. MIKE TAYLOR			✓
SEN. KEN TOOLE	✓		
SEN. EMILY STONINGTON	✓		
SEN. ROBERT STORY	✓		
SEN. CORY STAPLETON, VICE CHAIR	✓		
SEN. ROYAL JOHNSON, CHAIR	✓		

DATE 3-20-03

SENATE COMMITTEE ON Energy + Telecom

BILLS BEING HEARD TODAY: HB 637; HB 641; HB 675; HB 710

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tom Ebzery	441-7531	Qwest	HB641	X	
Brad Griffin	855-5981	MT Retail Assoc	710	X	
Jim Kembel	442-8684	MT ASSOC. OF CHIEF'S OF POLICE	HB637	X	
Jim Kembel	"	Self	HB 710	X	
Rick Hays	441-7700	Qwest	HB 641 HB 710	X X	
Aimee Grmoljez	443.6820	Verizon wireless	HB641		X
Cory Swanson	449-3118	Bresnan Communications	HB 710	X	
CATHY CONOVER	587563	Montana State Univ.	HB 710		Info only

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE March 20, 2003

SENATE COMMITTEE ON Energy & Telecommunications

BILLS BEING HEARD TODAY: HB 637; 641; 675
HB 710

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Phil Maxwell		3 Rivers Com	HB641	✓	
Mike Strand	443-1540	Montana Independent Telecommunications Systems	HB641	*	
Bill Squires	541-5330	Blackfoot Telephone	HB641	✓	
Margaret Morgan	431-9836	Western Wireless	HB641		X
Forrest Christian	442-6646	Montana Internet	HB710	✓	
Curt Jonsa	444-3939	CPO	HB710 HB637	✓	
Tom Schneider	444-6169	PSC	HB641	*	
Ron Williams	425-586-8360	Western Wireless	HB641		✓
~~Seth McClain~~	~~406-444-2~~	~~Internet Connect Service~~	~~HB 710~~	~~*~~	~~*~~
Chuck Evilsizer	442-7115	Ronan Telephone Hot Springs Tel.	HB641		✓
Chuck Evilsizer	442-7115	Montana Skynet Ronan Telephone	HB710		✓
Bob Brennenman	443-8590	ACLU of MT	HB675	✓	
Geoff Feiss	1142 4316	MT Telecom Assn	HB641	✓	
			HB710	amend	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROYAL JOHNSON**, on March 27, 2003 at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Royal Johnson, Chairman (R)
Sen. Corey Stapleton, Vice Chairman (R)
Sen. Bea McCarthy (D)
Sen. Walter McNutt (R)
Sen. Gary L. Perry (R)
Sen. Don Ryan (D)
Sen. Emily Stonington (D)
Sen. Bob Story Jr. (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Todd Everts, Legislative Services Division
Marion Mood, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 641; HB 571; HB 337; HB 304

EXECUTIVE ACTION ON HB 641

CHAIRMAN ROYAL JOHNSON advised since there had been disagreement during the hearing, he had asked the parties involved to get together, solve their problems and create a bill beneficial to the people of Montana. **REP. DICK HAINES** had supervised this meeting and was asked to give a status report.

REP. DICK HAINES, HD 63, MISSOULA, recalled the recurring question why the parties could not come to an agreement when all the necessary pieces were available, and stated an agreement could not be forged because not all of the issues had been covered and discussed. He repeated the originating carrier did not always encode the identifying information on his call system which made it impossible for the terminating carrier to bill him. Sometimes this information was in the call stream but was either blended or stripped, and the terminating carrier again is unable to identify the call. The transiting carrier was able to discern this information but did not always forward enough information to the terminating carrier. He maintained billing records could be furnished but were not always accurate or they may not always have enough data for the terminating carrier to properly bill the originating carrier; and thirdly, the question arose as to who would pay for the billing records. These were the main points of contention, and he believed they were worked out during the previous Saturday's meeting. The sponsor handed out **Amendment 064101.ate, EXHIBIT(ens65a01)** and stated the amended bill required all telecommunications companies to provide the necessary information by way of interconnection agreements; if agreements were in place but were not adhered to, provisions in the bill can force them. Several members of the PSC had participated, and he was convinced they would be able make this process work, and also would be the settler of any disputes; the bill provided the commission with the authority to either let the terminating carrier stop accepting traffic on their network, arrange for interim payments while the dispute is being settled, or order other appropriate relief. He emphasized one of the concerns which surfaced during the hearing had been the idea of stopping traffic from coming into the network, and he contended this was standard industry practice. The bill did stipulate, though, that the terminating carrier cannot arbitrarily terminate traffic; he has to petition the PSC who will then determine whether to stop traffic or not.
REP. HAINES submitted supporting documents, **EXHIBIT(ens65a02)** and **EXHIBIT(ens65a03).**

CHAIRMAN JOHNSON asked if the amendments would take care of all of the problems and whether everyone involved had seen them. **REP. HAINES** replied everyone had seen the amendments as well as the grey bill and commented both Western Wireless and Ronan Telephone did not like this version, either. **CHAIRMAN JOHNSON** inquired if **Mr. Swanson** had seen the amendments which he confirmed, saying his company did not entirely agree with them.

SEN. MIKE TAYLOR, SD 37, PROCTOR, asked the sponsor how much money was involved. **REP. HAINES** stated he did not know exactly but thought it had to be substantial because 80% of the calls

could not be billed properly. **SEN. TAYLOR** wondered if someone in the audience was able to answer his question. **Bill Squires, Blackfoot Telephone Cooperative**, stated between his company and **3 Rivers Communications** alone, revenue lost in the last four years amounted to roughly $5 million; he estimated his company would be able to recoup $3 - 500,000 per year if HB 641 passed. **SEN. TAYLOR** asked if anyone else's company had lost revenue due to this problem. **Chuck Evilsizer, Ronan Telephone Company**, stated his company was suing for $400,000, and he claimed they would lose their lawsuit if this bill passed. **SEN. TAYLOR** addressed **Geoff Feiss** and asked if HB 641 was to pass, would the money be re-invested in Montana. **Mr. Feiss** affirmed this, adding these local phone companies would definitely re-invest it.

SEN. COREY STAPLETON, SD 10, BILLINGS, ascertained $5 million was owed to him, and **Mr. Squires** replied that amount was a combination between Blackfoot and 3 Rivers Communications. **SEN. STAPLETON** wondered how much money his company owed as an originating carrier, and **Mr. Squires** stated they owed none; their outgoing calls were identifiable, billed and paid.

SEN. DON RYAN, SD 22, GREAT FALLS, wondered what the cost of the billing records were; he seemed to recall it was 1/4 cent per record. **Mr. Squires** explained Qwest had this amount in some of its current agreements but he did not know whether the PSC would approve it under this bill. **SEN. RYAN** inquired if they had ever asked for these records, and **Mr. Squires** informed him they had not because heretofore, Qwest had required them to sign an agreement in order to obtain the records, and he felt this agreement was one-sided and onerous; he added HB 641 would get rid of such a requirement. **SEN. RYAN** asked **Mr. Hays, Qwest,** if he perceived a problem with the agreement. **Mr. Hays** replied it was part of their standard interconnection agreement which they had with various providers and suppliers across the region; he did not know what the perceived problem would be. **SEN. RYAN** inquired how many records he could make available for 1/4 cent per record. **Mr. Hays** stated he would release all of the records of calls terminating to their trunks, and the amount would vary depending on the number of calls. **SEN. RYAN** assumed it would be more than four or five records and asked for an estimate. **Mr. Hays** replied it would be thousands.

SEN. BEA McCARTHY, SD 29, ANACONDA, wondered if this issue was discussed at Saturday's meeting, and **Mr. Hays** advised, to his knowledge, it was not. **REP. HAINES** stepped forward and contended this issue was brought up and discussed thoroughly; he advised the meeting was taped and recorded by a stenographer. The agreement contained a liability clause which Blackfoot did not

want to sign as they did not want to be held liable if the information proved to be inaccurate. **SEN. McCARTHY** asked **Mr. Squires** to briefly explain this liability issue. **Mr. Squires** replied they, and other companies like them, did not want to sign the contract because it relieved Qwest of all liability for the data they provided.

CHAIRMAN JOHNSON invited **REP. HAINES** to add any relevant comments before the committee voted; **REP. HAINES** quoted from the notes as recorded by the stenographer: **"REP. HAINES** stated that if he was hearing the group correctly, they definitely needed the interconnection agreement, they still need the blocking ability, they still need to be able to appeal non-performance of either entering into an agreement or failing to carry out certain terms of the agreement and need to able to appeal all of that to the Public Service Commission. There was agreement on that." **CHAIRMAN JOHNSON** thanked the sponsor for all he had done, and announced the committee would take a **Roll Call Vote.**

Motion: SEN. TOOLE moved that HB 641 BE CONCURRED IN.

Substitute Motion: SEN. TOOLE moved that AMENDMENT HB064101.ATE BE ADOPTED.
Vote: Substitute motion carried unanimously.

Motion/Vote: SEN. TOOLE moved that HB 641 BE CONCURRED IN AS AMENDED. Motion carried 6-4 with MCNUTT, PERRY, STAPLETON, and TAYLOR voting no.

EXECUTIVE ACTION ON HB 571

Motion/Vote: SEN. TAYLOR moved that HB 571 BE INDEFINITELY POSTPONED. Motion carried 6-4 with MCCARTHY, RYAN, STONINGTON, and TOOLE voting no (Roll Call).

EXECUTIVE ACTION ON HB 337

Motion: SEN. TOOLE moved that HB 337 BE CONCURRED IN.

SEN. TOOLE introduced **Amendment HB033701.ate, EXHIBIT(ens65a04).**
Motion: SEN. TOOLE moved that AMENDMENT HB033701.ATE BE ADOPTED.

Discussion:

Exhibit No. 1
Date 3-27-03
Bill No. HB 641

Amendments to House Bill No. 641
3rd Reading Copy

Requested by Representative Dick Haines

For the Senate Energy and Telecommunications Committee

Prepared by Todd Everts
March 26, 2003 (2:54pm)

1. Title, page 1, line 5 through line 6.
Strike: ""INTEREXCHANGE" on line 5 through the second "CARRIER"" on line 6
Insert: "CERTAIN TERMS"
Following: ";" on line 6
Strike: "AND"

2. Title, page 1, line 7.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1.
Following: line 12
Insert: "(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9."
Renumber: subsequent subsections

4. Page 1, line 22 through line 25.
Strike: subsection (5) in its entirety
Insert: "(6) "Local telecommunications" means:

(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or

(b) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

(7) "Nonlocal telecommunications" means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR 24.202(a)."
Renumber: subsequent subsections

5. Page 1, line 26.
Following: "network"
Insert: "a customer originates"

6. Page 1, line 27.
Strike: "originates"

7. Page 3.
Following: line 6
Insert: "(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.
(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services."

8. Page 3, line 7.
Following: "carrier"
Insert: "or carriers"
Strike: "transports"
Insert: "transport transit"

9. Page 3, line 8.
Following: the second "carrier"
Insert: "and that does not originate or terminate telecommunications traffic"

10. Page 3, line 10.
Strike: "**Interexchange services - nondiscriminatory**"
Insert: "**Nondiscriminatory**"

11. Page 3, line 11.
Following: "**billing records --**"
Insert: "**enforcement --**"
Strike: "INTEREXCHANGE SERVICES"
Insert: "local telecommunications service"

12. Page 3, line 14 through line 24.
Strike: "INTERCHANGE" on line 14 through "carrier." on line 24
Insert: "local telecommunications service.
(2) A provider of intralocal access transport area toll services or any other carrier that provides nonlocal telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.
(3) A transiting carrier shall deliver telecommunications traffic to terminating carriers by means of facilities that enable the terminating carrier to receive from the originating carrier any and all information that the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its

telecommunications traffic."
Renumber: subsequent subsections

13. Page 3, line 25.
Following: "records"
Insert: "for its transit traffic"

14. Page 3, line 26 through line 27.
Strike: "THE" on line 26 through "carrier." on line 27
Insert: "The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (7)."

15. Page 3, line 28.
Strike: "AN ORIGINATING CARRIER"
Insert: "A local exchange carrier or commercial mobile radio services provider "
Following: "LOCAL"
Insert: "telecommunications"

16. Page 3, line 29.
Strike: "ENTER INTO"
Insert: "negotiate"

17. Page 3, line 30.
Following: "69-3-839."
Insert: "The interconnection agreement must include rates, terms, and conditions for reciprocal compensation for the transport and termination of local telecommunications traffic."

18. Page 4, line 1 through line 6.
Strike: subsection (5) in its entirety
Insert: "(6) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-3-805 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. Upon the filing of a complaint, the commission may authorize the terminating carrier to refuse to terminate traffic from the originating carrier or the commission may authorize interim payments. The commission may order compensation to the terminating carrier and may order other appropriate relief."
Renumber: subsequent subsection

19. Page 4, line 7.
Strike: "may"
Insert: "shall"

20. Page 4, line 8 through line 10.
Strike: "define" on line 8 through "usage" on line 10
Insert: "identify what type of transit records are available and what the cost of the transit records should be and must determine which party is responsible for the payment of

9C

detailed call records to the transiting carrier"

21. Page 4.
Following: line 17
Insert: "NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective July 1, 2003."

- END -

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Exhibit No. 3
Date 3-27-03
SB HB 641

HB 641 REMAINS FLAWED AND SHOULD NOT PASS

EXECUTIVE ACTION PENDING BEFORE THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE

Submitted by Ronan Telephone Company and Hot Springs Telephone Co. - March 27, 2003

- **SIGNIFICANT OPPOSITION TO HB 641 REMAINS**

Chairman Royal Johnson directed that a meeting be held among all interested parties, to reach a compromise Bill. *At the conclusion of the meeting held on Saturday, March 22, 2003, only one of the many opponents withdrew their opposition, based on only a few minor amendments.* Therefore, this Bill remains highly flawed, and does much more damage than it accomplishes. Ronan Telephone, Hot Springs Telephone and Western Wireless/CellularOne continue to strongly oppose this Bill.

- **WHY IS QWEST SUPPORTING THIS BILL?**

Qwest stands to gain, and Montana companies will be hurt by this Bill.

This Bill confuses the pending Federal Court case to recover charges due to the Montana Independent Telephone Companies, *3 Rivers Telephone et.al. v. Qwest,* in U.S. District Court (approx. $5 million) and *Mid-Rivers v. Qwest.*; and the Bill attempts to shift existing obligations from Qwest to wireless companies.

- **Inconsistent with Existing Montana PSC Tariffs and Rulings**

- **This Bill remains hopelessly confusing, ambiguous and vague,** and its only impact would be uncertain and protracted litigation.

- **Many Provisions are likely pre-empted by the Federal Telecommunications Act**

- **Technical Limitations and Problems**: many provisions may be costly, difficult or impossible to implement and enforce.

- **Much Better Alternatives Exist:** Ronan Telephone has submitted two alternatives with amendments which would drastically improve this Bill. Either of these alternatives would be effective in addressing the issues.

- **The Co-op's are asking the Montana Legislature to act as an Expert Technical Agency which is the role of the Public Service Commission.**

Montana Public Service Commission

Bob Rowe, Chairman
Tom Schneider, Vice-Chairman
Matt Brainard
Greg Jergeson
Jay Stovall

1701 Prospect Avenue
PO Box 202601
Helena, MT 59620-2601
Telephone: (406) 444-6199
FAX#: (406) 444-7618
http://www.psc.state.mt.us

March 25, 2003

Senator Royal Johnson
Chairman, Senate Energy and Telecommunications
Montana State Senate
P.O. Box 200500
Helena, Montana 59620

Senate Energy & Telecommunications
Exhibit No. 13
Date 3-27-03
Bill No. HB 641

Re: HB 641 (Telecommunications Intercarrier Compensation)

Dear Chairman Johnson:

The Public Service Commission (PSC) supports HB 641 (telecommunications intercarrier compensation) in the form that reflects amendments soon to be presented to the Energy and Telecommunications Committee, by or on behalf of the sponsor, Representative Haines. These amendments were the result of detailed discussions among many interested parties, and are supported by most, but not all, of the participants in those discussions.

HB 641, with the amendments you will see, is necessary legislation. It will help resolve a number of existing problems in Montana. A robust telecommunications network depends upon interconnection between telecommunications carriers of all types. HB 641 clarifies critical issues in inter-carrier interconnection, including the kinds of information which must be transmitted from one carrier to another. It also clarifies the PSC's jurisdictional to resolve inter-carrier disputes arising from interconnection agreements. The absence of such a remedy in the past has required carriers to go to court, incurring substantial costs. Therefore, HB 641 will make both the terms of interconnection and dispute resolution concerning interconnection more transparent and more efficient.

If you have any questions or comments, please feel free to contact me. Thank you.

Sincerely,

Bob Rowe
Chairman

cc: Representative Haines
Members of the Senate Energy and Telecommunications Committee Sen McCarthy

MONTANA SENATE
2003 LEGISLATURE
ENERGY & TELECOMMUNICATION
ROLL CALL

DATE 3-27-03

NAME	PRESENT	ABSENT	EXCUSED
SEN. WALT McNUTT	✓		
SEN. DON RYAN	✓		
SEN. BEA McCARTHY	✓		
SEN. GARY PERRY	✓		
SEN. MIKE TAYLOR	✓		
SEN. KEN TOOLE	✓		
SEN. EMILY STONINGTON	✓		
SEN. ROBERT STORY	✓		
SEN. CORY STAPLETON, VICE CHAIR	✓		
SEN. ROYAL JOHNSON, CHAIR	✓		

MONTANA SENATE
2003 LEGISLATURE
ENERGY & TELECOMMUNICATIONS
ROLL CALL VOTE

DATE 3-27-03 BILL NO. HB 641 NUMBER _____

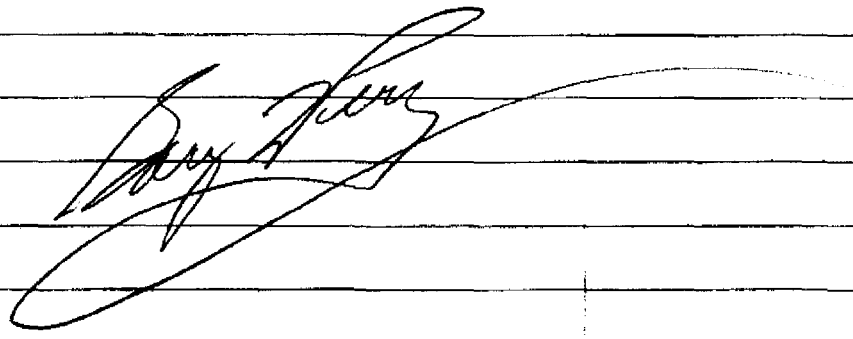
MOTION: concur as amended

NAME	AYE	NOS
SEN. CORY STAPLETON, VICE CHAIR		Y
SEN. WALT McNUTT		Y
SEN. DON RYAN	Y	
SEN. BEA McCARTHY	Y	
SEN. GARY PERRY		Y
SEN. MIKE TAYLOR		Y
SEN. KEN TOOLE	Y	
SEN. EMILY STONINGTON	Y	
SEN. BOB STORY	Y	
SEN. ROYAL JOHNSON, CHAIRMAN	Y	
	6	4

X

HB 644 NO

HB 594 NO



SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Energy and Telecommunications** recommend that **House Bill 641** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Senator Royal Johnson, Chair*

To be carried by Senator Bob Story Jr.

And, that such amendments read:

1. Title, page 1, line 5 through line 6.
Strike: ""INTEREXCHANGE" on line 5 through the second "CARRIER""
on line 6
Insert: "CERTAIN TERMS"
Following: ";" on line 6
Strike: "AND"

2. Title, page 1, line 7.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 1.
Following: line 12
Insert: "(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9."
Renumber: subsequent subsections

4. Page 1, line 22 through line 25.
Strike: subsection (5) in its entirety
Insert: "(6) "Local telecommunications" means:
(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or
(b) commercial mobile radio service that originates from or

Committee Vote:
Yes 6, No 4.

terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

(7) "Nonlocal telecommunications" means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR 24.202(a)."

Renumber: subsequent subsections

5. Page 1, line 26.
Following: "network"
Insert: "a customer originates"

6. Page 1, line 27.
Strike: "originates"

7. Page 3.
Following: line 6
Insert: "(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services."

8. Page 3, line 7.
Following: "carrier"
Insert: "or carriers"
Strike: "transports"
Insert: "transport transit"

9. Page 3, line 8.
Following: the second "carrier"
Insert: "and that does not originate or terminate telecommunications traffic"

10. Page 3, line 10.
Strike: **"Interexchange services - nondiscriminatory"**
Insert: **"Nondiscriminatory"**

11. Page 3, line 11.
Following: **"billing records -"**
Insert: **"enforcement --"**
Strike: "INTEREXCHANGE SERVICES"
Insert: "local telecommunications service"

12. Page 3, line 14 through line 24.
Strike: "INTEREXCHANGE" on line 14 through "carrier." on line 24
Insert: "local telecommunications service.

(2) A provider of intralocal access transport area toll services or any other carrier that provides nonlocal telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating carriers by means of facilities that enable the terminating carrier to receive from the originating carrier any and all information that the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its telecommunications traffic."
Renumber: subsequent subsections

13. Page 3, line 25.
Following: "records"
Insert: "for its transit traffic"

14. Page 3, line 26 through line 27.
Strike: "THE" on line 26 through "carrier." on line 27
Insert: "The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (7)."

15. Page 3, line 28.
Strike: "AN ORIGINATING CARRIER"
Insert: "A local exchange carrier or commercial mobile radio services provider "
Following: "LOCAL"
Insert: "telecommunications"

16. Page 3, line 29.
Strike: "ENTER INTO"
Insert: "negotiate"

17. Page 3, line 30.
Following: "69-3-839."
Insert: "The interconnection agreement must include rates, terms, and conditions for reciprocal compensation for the transport and termination of local telecommunications traffic."

18. Page 4, line 1 through line 6.
Strike: subsection (5) in its entirety
Insert: "(6) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-3-805 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. Upon the filing of a complaint, the commission may authorize the terminating carrier to refuse to terminate traffic from the originating carrier or the commission may authorize interim payments. The commission may order compensation to the terminating carrier and may order other appropriate relief."
Renumber: subsequent subsection

19. Page 4, line 7.
Strike: "may"
Insert: "shall"

20. Page 4, line 8 through line 10.
Strike: "define" on line 8 through "usage" on line 10
Insert: "identify what type of transit records are available and what the cost of the transit records should be and must determine which party is responsible for the payment of detailed call records to the transiting carrier"

21. Page 4.
Following: line 17
Insert: "NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003."

- END -

Second Reading

Tropila, Wheat.
Total 28

Nays: Cromley, Ellingson, Elliott, Hansen, Kitzenberg, Toole.
Total 6

Absent or not voting: None.
Total 0

Excused: Bales, Barkus, Butcher, Cobb, Cooney, McCarthy, Nelson, Schmidt, Shea, Squires, Stapleton, Stonington, Tash, Tester, Zook, Mr. President.
Total 16

HB 509 - Senator Johnson moved **HB 509** be concurred in. Motion carried unanimously.

HB 523 - Senator Bohlinger moved **HB 523** be concurred in. After discussion, Senator Thomas made a **substitute motion** that consideration of **HB 523** be moved to the bottom of the board. Motion carried.

HB 640 - Senator McGee moved **HB 640** be concurred in. After discussion, Senator Thomas made a **substitute motion** that consideration of **HB 640** be moved to the bottom of the board. Motion carried.

HB 641 - Senator D. Ryan moved **HB 641**, second reading copy, be amended as follows:

1. Page 5, line 27.
Insert: "NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."
Renumber: subsequent sections

Amendment **adopted** unanimously.

HB 641 - Senator Story moved **HB 641**, as amended, be concurred in. Motion carried with Senators Cocchiarella, Cromley and Perry voting nay.

HB 648 - Senator Bales moved **HB 648** be concurred in. Motion carried unanimously.

HB 669 - Senator McGee moved **HB 669** be concurred in. Motion carried unanimously.

HB 404 - Senator Grimes moved **HB 404**, second reading copy, be amended as follows:

1. Title, line 4.
Following: "~~REQUIRING~~"
Strike: "ALLOWING"
Insert: "REQUIRING"

2. Title, line 7.
Following: "PROVIDING"
Strike: "LIMITED IMMUNITY FROM CIVIL DAMAGES FOR"
Following: "~~PRIVATE~~"
Strike: "EMPLOYERS"

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APPROVED BY COMM ON
ENERGY & TELECOMMUNICATIONS

HOUSE BILL NO. 641

INTRODUCED BY HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING ~~"INTEREXCHANGE SERVICES", "ORIGINATING CARRIER", "TERMINATING CARRIER", AND "TRANSITING CARRIER"~~ CERTAIN TERMS; PROVIDING RULEMAKING AUTHORITY; ~~AND~~ AMENDING SECTION 69-3-803, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "COMMERCIAL MOBILE RADIO SERVICE" MEANS COMMERCIAL MOBILE RADIO SERVICE AS DEFINED IN 47 CFR 20.9.

~~(1)~~(2) "Commission" means the public service commission.

~~(2)~~(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(3)~~(4) "Fund" means the universal service fund established in 69-3-842.

~~(4)~~(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

~~(5) (A) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.~~

~~(B) THE TERM DOES NOT INCLUDE SERVICES PROVIDED BY A TRANSITING CARRIER.~~

(6) "LOCAL TELECOMMUNICATIONS" MEANS:

(A) TELECOMMUNICATIONS ORIGINATING IN A WIRELINE LOCAL CALLING AREA, INCLUDING EXTENDED AREA

SERVICE AREAS, AND TERMINATING IN THE SAME WIRELINE LOCAL CALLING AREA OR EXTENDED AREA SERVICE AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES FROM OR TERMINATES TO A COMMERCIAL MOBILE RADIO SERVICE PROVIDER WITHIN THE SAME MAJOR TRADING AREA AS DEFINED IN 47 CFR 24.202(A).

(7) "NONLOCAL TELECOMMUNICATIONS" MEANS:

(A) WIRELINE TELECOMMUNICATIONS TRAFFIC CARRIED BY EITHER AN INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR AN INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER THAT ORIGINATES IN ONE WIRELINE LOCAL CALLING AREA AND TERMINATES IN ANOTHER WIRELINE LOCAL CALLING AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES IN A MAJOR TRADING AREA AND TERMINATES IN A DIFFERENT MAJOR TRADING AREA, AS DEFINED IN 47 CFR 24.202(A).

~~(6)~~(8) "Originating carrier" means a telecommunications carrier from whose network A CUSTOMER ORIGINATES telecommunications traffic ~~originates~~.

~~(5)(7)~~(9) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)(8)~~(10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)(9)~~(11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)(10)~~(12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)~~~~(11)~~(13) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)~~~~(12)~~(14) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

~~(13)~~(15) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(16) (A) "TRANSIT TRAFFIC" MEANS TELECOMMUNICATIONS TRAFFIC THAT AN ORIGINATING CARRIER DELIVERS TO A TRANSITING CARRIER OR CARRIERS FOR DELIVERY TO A TERMINATING CARRIER.

(B) THE TERM DOES NOT MEAN TRAFFIC CARRIED BY INTERLOCAL ACCESS TRANSPORT AREA CARRIERS OR PROVIDERS OF INTRALOCAL ACCESS TRANSPORT AREA TOLL SERVICES.

~~(14)~~(17) "Transiting carrier" means a telecommunications carrier OR CARRIERS that ~~transports~~ TRANSPORT TRANSIT traffic from an originating carrier to a terminating carrier AND THAT DOES NOT ORIGINATE OR TERMINATE TELECOMMUNICATIONS TRAFFIC."

NEW SECTION. **Section 2.** ~~**Interexchange services -- nondiscriminatory**~~ NONDISCRIMINATORY

intercarrier compensation -- billing records -- ENFORCEMENT -- rulemaking. (1) AN ORIGINATING CARRIER OF ~~INTEREXCHANGE SERVICES~~ LOCAL TELECOMMUNICATIONS SERVICE SHALL TRANSMIT WITH THE ORIGINATING CARRIER'S TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER FOR THE TERMINATION OF THE ~~INTEREXCHANGE SERVICES. Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the TERMINATING CARRIER OR local exchange carrier TO RECEIVE INFORMATION FROM THE ORIGINATING CARRIER IN ORDER to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge for traffic originated by the provider of interexchange services or by other carriers.~~

~~(2) Wireless originated telecommunications delivered to a local exchange carrier network, either directly or through an intermediary transport provider, must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.~~ LOCAL TELECOMMUNICATIONS SERVICE.

(2) A PROVIDER OF INTRALOCAL ACCESS TRANSPORT AREA TOLL SERVICES OR ANY OTHER CARRIER THAT PROVIDES NONLOCAL TELECOMMUNICATIONS SERVICES IN MONTANA SHALL TRANSMIT WITH ITS TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE FOR THE TERMINATION OF THE TELECOMMUNICATIONS TRAFFIC.

(3) A TRANSITING CARRIER SHALL DELIVER TELECOMMUNICATIONS TRAFFIC TO TERMINATING CARRIERS BY MEANS OF FACILITIES THAT ENABLE THE TERMINATING CARRIER TO RECEIVE FROM THE ORIGINATING CARRIER ANY AND ALL INFORMATION THAT THE ORIGINATING CARRIER TRANSMITS WITH ITS TELECOMMUNICATIONS TRAFFIC THAT ENABLES THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER OR THE INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER OF NONLOCAL TELECOMMUNICATIONS TRAFFIC FOR THE TERMINATION OF ITS TELECOMMUNICATIONS TRAFFIC.

~~(3)~~(4) A transiting carrier is required to provide billing records FOR ITS TRANSIT TRAFFIC to the ~~commission~~ TERMINATING CARRIER upon request. ~~The commission shall establish by rule the reasonable cost of providing the billing records, and the~~ THE ~~cost of providing the records must be borne by the originating carrier.~~ THE TRANSITING CARRIER SHALL PROVIDE BILLING RECORDS PURSUANT TO EXISTING POLICIES AND AGREEMENTS UNTIL THE COMMISSION ADOPTS RULES PURSUANT TO SUBSECTION (7).

~~(4)~~(5) ~~AN ORIGINATING CARRIER~~ A LOCAL EXCHANGE CARRIER OR COMMERCIAL MOBILE RADIO SERVICES

PROVIDER THAT DELIVERS LOCAL TELECOMMUNICATIONS TRAFFIC TO A TERMINATING CARRIER, DIRECTLY OR INDIRECTLY THROUGH A TRANSITING CARRIER, SHALL, UPON REQUEST OF THE TERMINATING CARRIER, ~~ENTER INTO~~ NEGOTIATE AN INTERCONNECTION AGREEMENT WITH THE TERMINATING CARRIER, AS PROVIDED IN 69-3-831 THROUGH 69-3-839. THE INTERCONNECTION AGREEMENT MUST INCLUDE RATES, TERMS, AND CONDITIONS FOR RECIPROCAL COMPENSATION FOR THE TRANSPORT AND TERMINATION OF LOCAL TELECOMMUNICATIONS TRAFFIC.

~~(5) IF AN ORIGINATING CARRIER REFUSES TO NEGOTIATE AN INTERCONNECTION AGREEMENT AS PROVIDED IN SUBSECTION (4), A TERMINATING CARRIER MAY:~~

~~(A) REFUSE TO TERMINATE TRAFFIC DELIVERED BY THE ORIGINATING CARRIER; OR~~

~~(B) FILE A COMPLAINT WITH THE COMMISSION. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER FOR THE TERMINATING SERVICES AT THE SAME RATE CHARGED BY THE TERMINATING CARRIER TO OTHER ORIGINATING CARRIERS.~~

(6) A TELECOMMUNICATIONS CARRIER REGISTERED TO PROVIDE TELECOMMUNICATIONS SERVICES IN MONTANA PURSUANT TO 69-3-805 MAY FILE A COMPLAINT WITH THE COMMISSION REQUESTING ENFORCEMENT OF THIS SECTION, INCLUDING ENFORCEMENT OF AN AGREEMENT APPROVED BY THE COMMISSION UNDER 69-3-839. UPON THE FILING OF A COMPLAINT, THE COMMISSION MAY AUTHORIZE THE TERMINATING CARRIER TO REFUSE TO TERMINATE TRAFFIC FROM THE ORIGINATING CARRIER OR THE COMMISSION MAY AUTHORIZE INTERIM PAYMENTS. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER AND MAY ORDER OTHER APPROPRIATE RELIEF.

~~(4)(6)~~(7) The commission ~~may~~ SHALL adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must ~~define the terms "inter-LATA", "intra-LATA", "access tandem", and "host end office" in accordance with commonly accepted industry usage~~ IDENTIFY WHAT TYPE OF TRANSIT RECORDS ARE AVAILABLE AND WHAT THE COST OF THE TRANSIT RECORDS SHOULD BE AND MUST DETERMINE WHICH PARTY IS RESPONSIBLE FOR THE PAYMENT OF DETAILED CALL RECORDS TO THE TRANSITING CARRIER.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

100

NEW SECTION. **SECTION 5. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE JULY 1, 2003.

- END -

lc

Reference Bill as amended

HOUSE BILL NO. 641

INTRODUCED BY HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING ~~"INTEREXCHANGE SERVICES", "ORIGINATING CARRIER", "TERMINATING CARRIER", AND "TRANSITING CARRIER"~~ CERTAIN TERMS; PROVIDING RULEMAKING AUTHORITY; ~~AND~~ AMENDING SECTION 69-3-803, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "COMMERCIAL MOBILE RADIO SERVICE" MEANS COMMERCIAL MOBILE RADIO SERVICE AS DEFINED IN 47 CFR 20.9.

~~(1)~~(2) "Commission" means the public service commission.

~~(2)~~(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(3)~~(4) "Fund" means the universal service fund established in 69-3-842.

~~(4)~~(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

~~(5) (A) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.~~

~~(B) THE TERM DOES NOT INCLUDE SERVICES PROVIDED BY A TRANSITING CARRIER.~~

(6) "LOCAL TELECOMMUNICATIONS" MEANS:

(A) TELECOMMUNICATIONS ORIGINATING IN A WIRELINE LOCAL CALLING AREA, INCLUDING EXTENDED AREA SERVICE AREAS, AND TERMINATING IN THE SAME WIRELINE LOCAL CALLING AREA OR EXTENDED AREA SERVICE AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES FROM OR TERMINATES TO A COMMERCIAL MOBILE RADIO SERVICE PROVIDER WITHIN THE SAME MAJOR TRADING AREA AS DEFINED IN 47 CFR 24.202(A).

(7) "NONLOCAL TELECOMMUNICATIONS" MEANS:

(A) WIRELINE TELECOMMUNICATIONS TRAFFIC CARRIED BY EITHER AN INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR AN INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER THAT ORIGINATES IN ONE WIRELINE LOCAL CALLING AREA AND TERMINATES IN ANOTHER WIRELINE LOCAL CALLING AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES IN A MAJOR TRADING AREA AND TERMINATES IN A DIFFERENT MAJOR TRADING AREA, AS DEFINED IN 47 CFR 24.202(A).

~~(6)~~(8) "Originating carrier" means a telecommunications carrier from whose network A CUSTOMER ORIGINATES telecommunications traffic ~~originates~~.

~~(5)~~~~(7)~~(9) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~~~(8)~~(10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~~~(9)~~(11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate

retail consumer who originates or terminates the transmission.

~~(8)(10)~~(12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)(11)~~(13) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)(12)~~(14) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

~~(13)~~(15) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(16) (A) "TRANSIT TRAFFIC" MEANS TELECOMMUNICATIONS TRAFFIC THAT AN ORIGINATING CARRIER DELIVERS TO A TRANSITING CARRIER OR CARRIERS FOR DELIVERY TO A TERMINATING CARRIER.

(B) THE TERM DOES NOT MEAN TRAFFIC CARRIED BY INTERLOCAL ACCESS TRANSPORT AREA CARRIERS OR PROVIDERS OF INTRALOCAL ACCESS TRANSPORT AREA TOLL SERVICES.

~~(14)~~ (17) "Transiting carrier" means a telecommunications carrier OR CARRIERS that ~~transports~~ TRANSPORT TRANSIT traffic from an originating carrier to a terminating carrier AND THAT DOES NOT ORIGINATE OR TERMINATE TELECOMMUNICATIONS TRAFFIC."

NEW SECTION. **Section 2. ~~Interexchange services -- nondiscriminatory~~ NONDISCRIMINATORY intercarrier compensation -- billing records -- ENFORCEMENT -- rulemaking.** (1) AN ORIGINATING CARRIER OF ~~INTEREXCHANGE SERVICES~~ LOCAL TELECOMMUNICATIONS SERVICE SHALL TRANSMIT WITH THE ORIGINATING CARRIER'S TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER FOR THE TERMINATION OF THE ~~INTEREXCHANGE SERVICES.~~ ~~Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the TERMINATING CARRIER OR local exchange carrier TO RECEIVE INFORMATION FROM THE ORIGINATING CARRIER IN ORDER to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge for traffic originated by the provider of interexchange services or by other carriers.~~

~~(2) Wireless originated telecommunications delivered to a local exchange carrier network, either directly or through an intermediary transport provider, must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.~~ LOCAL TELECOMMUNICATIONS SERVICE.

(2) A PROVIDER OF INTRALOCAL ACCESS TRANSPORT AREA TOLL SERVICES OR ANY OTHER CARRIER THAT PROVIDES NONLOCAL TELECOMMUNICATIONS SERVICES IN MONTANA SHALL TRANSMIT WITH ITS TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE FOR THE TERMINATION OF THE TELECOMMUNICATIONS TRAFFIC.

(3) A TRANSITING CARRIER SHALL DELIVER TELECOMMUNICATIONS TRAFFIC TO TERMINATING CARRIERS BY MEANS OF FACILITIES THAT ENABLE THE TERMINATING CARRIER TO RECEIVE FROM THE ORIGINATING CARRIER ANY AND ALL INFORMATION THAT THE ORIGINATING CARRIER TRANSMITS WITH ITS TELECOMMUNICATIONS TRAFFIC THAT ENABLES THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER OR THE INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER OF NONLOCAL TELECOMMUNICATIONS

TRAFFIC FOR THE TERMINATION OF ITS TELECOMMUNICATIONS TRAFFIC.

~~(3)~~(4) A transiting carrier is required to provide billing records FOR ITS TRANSIT TRAFFIC to the ~~commission~~ TERMINATING CARRIER upon request. ~~The commission shall establish by rule the reasonable cost of providing the billing records, and the~~ THE cost of ~~providing the records must be borne by the originating carrier.~~ THE TRANSITING CARRIER SHALL PROVIDE BILLING RECORDS PURSUANT TO EXISTING POLICIES AND AGREEMENTS UNTIL THE COMMISSION ADOPTS RULES PURSUANT TO SUBSECTION (7).

~~(4)~~(5) ~~AN ORIGINATING CARRIER~~ A LOCAL EXCHANGE CARRIER OR COMMERCIAL MOBILE RADIO SERVICES PROVIDER THAT DELIVERS LOCAL TELECOMMUNICATIONS TRAFFIC TO A TERMINATING CARRIER, DIRECTLY OR INDIRECTLY THROUGH A TRANSITING CARRIER, SHALL, UPON REQUEST OF THE TERMINATING CARRIER, ~~ENTER INTO~~ NEGOTIATE AN INTERCONNECTION AGREEMENT WITH THE TERMINATING CARRIER, AS PROVIDED IN 69-3-831 THROUGH 69-3-839. THE INTERCONNECTION AGREEMENT MUST INCLUDE RATES, TERMS, AND CONDITIONS FOR RECIPROCAL COMPENSATION FOR THE TRANSPORT AND TERMINATION OF LOCAL TELECOMMUNICATIONS TRAFFIC.

~~(5) IF AN ORIGINATING CARRIER REFUSES TO NEGOTIATE AN INTERCONNECTION AGREEMENT AS PROVIDED IN SUBSECTION (4), A TERMINATING CARRIER MAY:~~

~~(A) REFUSE TO TERMINATE TRAFFIC DELIVERED BY THE ORIGINATING CARRIER; OR~~

~~(B) FILE A COMPLAINT WITH THE COMMISSION. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER FOR THE TERMINATING SERVICES AT THE SAME RATE CHARGED BY THE TERMINATING CARRIER TO OTHER ORIGINATING CARRIERS.~~

(6) A TELECOMMUNICATIONS CARRIER REGISTERED TO PROVIDE TELECOMMUNICATIONS SERVICES IN MONTANA PURSUANT TO 69-3-805 MAY FILE A COMPLAINT WITH THE COMMISSION REQUESTING ENFORCEMENT OF THIS SECTION, INCLUDING ENFORCEMENT OF AN AGREEMENT APPROVED BY THE COMMISSION UNDER 69-3-839. UPON THE FILING OF A COMPLAINT, THE COMMISSION MAY AUTHORIZE THE TERMINATING CARRIER TO REFUSE TO TERMINATE TRAFFIC FROM THE ORIGINATING CARRIER OR THE COMMISSION MAY AUTHORIZE INTERIM PAYMENTS. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER AND MAY ORDER OTHER APPROPRIATE RELIEF.

~~(4)~~~~(6)~~(7) The commission ~~may~~ SHALL adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must ~~define the terms "inter-LATA", "intra-LATA", "access tandem", and "host-end office" in accordance with commonly accepted industry usage~~ IDENTIFY WHAT TYPE OF TRANSIT RECORDS ARE AVAILABLE AND WHAT THE COST OF THE TRANSIT RECORDS SHOULD BE AND MUST DETERMINE WHICH PARTY IS RESPONSIBLE FOR THE PAYMENT OF DETAILED

CALL RECORDS TO THE TRANSITING CARRIER.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **SECTION 4. SAVING CLAUSE.** [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS ACT].

NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **SECTION 6. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE JULY 1, 2003.

- END -

Third Reading

Excused: Sprague.
Total 1

HB 640, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Butcher, Cobb, Cocchiarella, Curtiss, DePratu, Elliott, Esp. Gebhardt, Glaser, Grimes, Hansen, Kitzenberg, Laible, Mahlum, McGee, McNutt, O'Neil, Perry, Sprague, Squires, Stapleton, Taylor, Thomas, Zook, Mr. President.
Total 29

Nays: Bohlinger, Cooney, Cromley, Ellingson, Harrington, Johnson, Mangan, McCarthy, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Stonington, Story, Tash, Tester, Toole, Tropila, Wheat.
Total 21

Paired: Sprague, Aye; Bohlinger, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 641, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.
Total 47

Nays: Cromley, Tropila.
Total 2

Absent or not voting: None.
Total 0

Excused: Sprague.
Total 1

HB 648, as amended by the Senate, concurred in as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 48

Nays: DePratu.
Total 1

AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING CERTAIN TERMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 69-3-803, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"**69-3-803. Definitions.** As used in this part, the following definitions apply:

(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9.

~~(1)~~(2) "Commission" means the public service commission.

~~(2)~~(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(3)~~(4) "Fund" means the universal service fund established in 69-3-842.

~~(4)~~(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

(6) "Local telecommunications" means:

(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or

(b) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

(7) "Nonlocal telecommunications" means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area, as defined in 47 CFR 24.202(a).

(8) "Originating carrier" means a telecommunications carrier from whose network a customer originates telecommunications traffic.

~~(5)~~(9) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~(10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~(11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)~~(12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently

available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)~~(13) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)~~(14) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

(15) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services.

(17) "Transiting carrier" means a telecommunications carrier or carriers that transport transit traffic from an originating carrier to a terminating carrier and that does not originate or terminate telecommunications traffic."

Section 2. Nondiscriminatory intercarrier compensation -- billing records -- enforcement -- rulemaking. (1) An originating carrier of local telecommunications service shall transmit with the originating carrier's telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge the originating carrier for the termination of the local telecommunications service.

(2) A provider of intralocal access transport area toll services or any other carrier that provides nonlocal

telecommunications services in Montana shall transmit with its telecommunications traffic information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of the telecommunications traffic.

(3) A transiting carrier shall deliver telecommunications traffic to terminating carriers by means of facilities that enable the terminating carrier to receive from the originating carrier any and all information that the originating carrier transmits with its telecommunications traffic that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its telecommunications traffic.

(4) A transiting carrier is required to provide billing records for its transit traffic to the terminating carrier upon request. The transiting carrier shall provide billing records pursuant to existing policies and agreements until the commission adopts rules pursuant to subsection (7).

(5) A local exchange carrier or commercial mobile radio services provider that delivers local telecommunications traffic to a terminating carrier, directly or indirectly through a transiting carrier, shall, upon request of the terminating carrier, negotiate an interconnection agreement with the terminating carrier, as provided in 69-3-831 through 69-3-839. The interconnection agreement must include rates, terms, and conditions for reciprocal compensation for the transport and termination of local telecommunications traffic.

(6) A telecommunications carrier registered to provide telecommunications services in Montana pursuant to 69-3-805 may file a complaint with the commission requesting enforcement of this section, including enforcement of an agreement approved by the commission under 69-3-839. Upon the filing of a complaint, the commission may authorize the terminating carrier to refuse to terminate traffic from the originating carrier or the commission may authorize interim payments. The commission may order compensation to the terminating carrier and may order other appropriate relief.

(7) The commission shall adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must identify what type of transit records are available and what the cost of the transit records should be and must determine which party is responsible for the payment of detailed call records to the transiting carrier.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title

69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Effective date. [This act] is effective July 1, 2003.

- END -